

***United States Court of Appeals
for the Second Circuit***



**APPELLEE'S
APPENDIX**

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75-2136

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 75-2136

SEYMOUR KLONER,
Petitioner-Appellant,

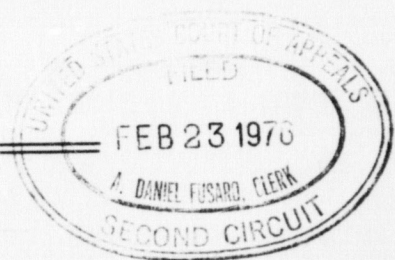
—against—

UNITED STATES OF AMERICA,
Respondent-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

GOVERNMENT'S APPENDIX

DAVID G. TRAGER,
*United States Attorney,
Eastern District of New York.*



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PLS*

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TABLE OF CONTENTS

PAGE

I. Collateral Proceedings:

1. Opinion and Order (September 22, 1975) (75 C 1212; 75 C 1379; 75 C 1395)	A-1
2. Docket Sheets (75 C 1212)	A-6
3. Documents filed in 75 C 1212:	
a. Letter dated July 9, 1975 to Simon Chrein	A-8
b. Order of Weinstein, J., dated July 21, 1975 and accompanying petition for writ of habeas corpus	A-9
c. Letter dated August 14, 1975 to Judd, J. with accompanying petition and affidavit	A-19
d. Petition for writ of habeas corpus dated August 19, 1975	A-22
4. Docket Sheets (75 C 1379)	A-28
5. Documents filed in 75 C 1379:	
a. Order to show cause and affidavit dated August 5, 1975	A-30
6. Docket Sheets (75 C 1395)	A-34
7. Documents filed in 75 C 1395:	
a. Letter to B. Krivisky dated August 19, 1975	A-36
b. Motion to vacate sentence dated August 19, 1975	A-37

	PAGE
II. Original Prosecution:	
8. Docket Sheets (71 Cr. 461)	A-38
9. Indictment	A-40
10. Judgment and Commitment	A-42
III. Documents filed on Appeal:	
11. Appeal by Petitioner dated October 16, 1975	A-43
12. Habeas Corpus Petition for stay of Judgment dated January 24, 1976	A-52
13. Affidavit of AUSA Stanley Marcus dated November 18, 1975	A-53
IV. Post-Appellate proceedings in the district court:	
14. Order of the district court (November 10, 1975)	A-56
15. Petition for writ of habeas corpus and affidavit dated October 31, 1975	A-57
16. Letter (by Weinstein, J.) to petitioner dated November 5, 1975	A-59
17. Letter to Weinstein, J. dated November 1, 1975	A-60
18. Habeas Corpus motion to show cause and temporary restraining order and affidavit dated November 12, 1975	A-62
19. Habeas Corpus motion for relief of judgment or order and affidavit dated November 18, 1975	A-64
20. Letter from Rayfiel, J. to petitioner dated November 21, 1975 enclosing order of same date	A-65

21.	Habeas Corpus motion to vacate sentence and affidavit dated November 24, 1975	A-67
22.	Petition for writ of habeas corpus and affidavit dated January 21, 1976	A-70
23.	Petition for writ of habeas corpus and affidavit dated January 28, 1976	A-71
24.	Letter from Rayfiel, J. to petitioner dated February 4, 1976	A-72
25.	Petition for habeas corpus and affidavit dated February 13, 1976	A-75
V. Miscellaneous:		
26.	Letter dated July 7, 1975 from Legal Aid Society to Weinstein, J.	A-77
27.	Letter from petitioner to AUSA Anthony Accetta dated December 8, 1971	A-79
28.	Letter from petitioner to AUSA Accetta dated September 25, 1972	A-81
29.	Petitioner's confession dated September 19, 1971	A-82

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U. S. DISTRICT COURT E.D. N.Y.
★ SEP 22 1975 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x
SEYMOUR KLONER, ex rel.,

Petitioner,

- against -

UNITED STATES DEPARTMENT OF JUSTICE;
UNITED STATES BOARD OF PAROLE;
UNITED STATES BUREAU OF PRISONS;
FEDERAL DETENTION HEADQUARTERS, NEW
YORK; LEWISBURG FEDERAL PENITENTIARY;
QUEENS HOUSE OF DETENTION FOR MEN,

75 C 1212 ✓

75 C 1379

75 C 1395

Respondents.
----- x

RAYFIEL, J.

On November 19, 1971 the petitioner was sentenced by the undersigned to five years imprisonment under Section 4208(a)(2) of Title 18, United States Code, on his plea of guilty to the charge of bank larceny (Title 18, Section 2113(b), United States Code). On September 17, 1973, after having served some 22 months of his sentence, he was paroled.

Thereafter he was charged with violating his parole conditions in that (1) he failed to report to his parole officer a change in his residence, and (2) that he left the area of his parole supervision without permission. At the hearing on those

8

charges, held at the Federal Detention Headquarters in New York City on February 24, 1975, the charges were sustained and his parole was revoked. It may be added that the petitioner admitted the violations at the hearing.

The findings of the Parole Board, upon which the revocation of parole was based, sustained the charges on the admissions of petitioner. Those findings have been affirmed on petitioner's appeal to the Regional Director of the Parole Board, and on further appeal to the National Appellate Board of the United States Board of Parole. At no time has the petitioner challenged those findings. While he argues that his parole officer was aware of the violations, he does not claim that the violations were with the parole officer's permission.

It is well established that the Board of Parole has broad discretion in revoking parole. "Unless it is clearly shown that the Board has abused its discretion in revoking . . . parole, the courts will not interfere. Freedman v. Looney, 210 F.2d 56 (10th Cir.); Clark v. Stevens, 291 F.2d 388 (6th Cir.)." Earnest v. Moseley, 426 F.2d 466 (10th Cir.). There is no showing of abuse of discretion at bar.

The petitioner has submitted, pro se, a number of applications variously denominated. Their general thrust is directed against the order of revocation, but all will be considered herein.

The petitioner contends that the revocation of his parole was illegal. He claims that his parole officer "was totally and completely aware of petitioner's residence up to and including the day said petitioner reported to U.S.P.O.'s office on January 24, 1975; at that date at 9:15 A.M. Mr. Fennelly [the parole officer] told petitioner that his parole was being revoked; this was after petitioner was instructed to fill out his monthly report form by Mr. Fennelly and to inscribe as his legal residence 899 Montgomery Street." [899 Montgomery Street was the original residence which petitioner was charged with having changed].

As to the charge that petitioner left the supervision area without permission, petitioner argues that he took a "business-vacation" on medical advice; that he was not advised that any statement, made by him, could be used against him; and that his parole officer advised "that he would not be revoked for this item."

Petitioner has moved, further, to vacate his original sentence under 28 U.S.C. 2255. He contends that he failed to appeal from the judgment of conviction because his then attorney failed to advise him of his right to appeal. Assuming that he received no such advices, he was not prejudiced since he makes no claim of any jurisdictional defect in his conviction. He could not have raised any non-jurisdictional issues on appeal since his conviction was based on his plea of guilty. ". . . A voluntary plea of guilty constitutes an effective and complete waiver of all non-jurisdictional defects which might be otherwise raised by way of defense, appeal or collateral attack. Weir v. United States, (7th Cir.), 92 F.2d 634, 635, 114 A.L.R. 481." United States v. Hetherington 279 F.2d 792, 796. To similar effect, see United States v. Spada, 331 F.2d 995, cert. denied, 379 U.S. 865.

In his motion under 28 United States Code §2255, petitioner makes the further claim that "prior to sentencing [his] attorney stated that [he] would receive a sentence of probation for two years; that he worked out a deal with the U. S. Attorney Anthony Accetta." This vague, unsupported, conclusory claim of an unfulfilled agreement between

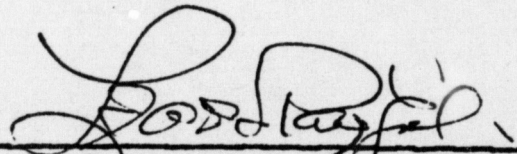
petitioner's attorney and the Assistant United States Attorney, is clearly insufficient to warrant a hearing. United States v. Wilkins, 281 F.2d 707.

Finally, he complains that in violation of his religious beliefs he has been denied kosher food and the ability to pray three times daily "with a quorum of Jews." This court is without power to grant the relief he seeks because he is no longer in federal custody. He is presently confined in the Queens House of Detention awaiting sentence on two charges of larceny, to which he pleaded guilty in Kings and Queens County. A detainer has been filed with the state authorities effective upon his release from the state institution. In any event, control of prison administration is not a function of a sentencing court. United States v. Huss, ____ F.2d ____, 2d Cir., July 25, 1975, Slip Opinion No. 1248, September Term, 1974.

The court finds that a hearing herein is not warranted, and the applications are in all respects denied.

This decision constitutes an ORDER. The Clerk is directed to file a notice of appeal on the petitioner's behalf.

Dated, Brooklyn, New York
September 22, 1975


United States District Judge

DIST. CLERK	DOCKET YR. NUMBER	FILING DATE MO. DAY YEAR	J	N/S	O	R	H	DEMAND OFFICE	JUDGE NUMBER	JURY DEM.	DOCKET YR. NUMBER
207	1 75 1212	07 28 75	3	530	1			APPEAL	0708X		RAYFIEL, J.

PLAINTIFFS

KDONER, SEYMOUR

UNITED STATES OF AMERICA
ex rel. SEYMOUR KLONER

DEFENDANTS

U.S. BOARD OF PAROLE

UNITED STATES BOARD OF PAROLE

CLOSED
PRO SE APPLICATION
under General Rule 26(e)

CAUSE

HABEAS CORPUS

REALTED: 71 CR 461

ATTORNEYS

FOR PLTFF:
Seymour Kloner/Pro Se
#72129
126-02 82nd Ave.
Kew Gardens, N.Y. 11415

<input type="checkbox"/> CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
				JS-5	
				JS-6	

DATE	NR.	PROCEEDINGS
7-28-75		APPLICATION FILED FOR A WRIT OF HABEAS CORPUS. (1)
7-28-75		BY WEINSTEIN, J.--Order dtd 7-21-75 filed directing the Clerk to treat action as a petition for a writ of habeas corpus, etc. Order endorsed on application papers. (1)
8-8-75		Copy of letter to petitioner from Judge Weinstein filed, dated 8-4-75 with annexed letter of petitioner. (2)
8-23-75		Copy of letter to petitioner from J. Weinstein filed, dated 8-19-75 with annexed letter of petitioner. (3)
8-28-75		Letter of petitioner dated 7-5-75 (addressed to Judge Judd) filed re: order to show cause, etc. (4)
8-28-75		Letter of petitioner dated 8-14-75 (addressdes to Judge Judd) filed. re: show cause. (5)
9/8/75		Petition of Seymour Kloner filed. (6)
9-10-75		Letter from Stanley Marcus dtd 9-10-75 filed. (7)
9-22-75		By RAYFIEL, J.-Memorandum and Order dtd 9-22-75 denying the the application for a writ of habeas corpus filed. (8)
9-23-75		Copy of letter of Clerk of Court filed dated Sept. 23, 1975 re enclosure of a copy of memo., etc. (9)
9-24-75	95	JUDGMENT dtd 9-24-75 dismissing petition filed. (10)
9-24-75		Notice of appeal filed. Copy mailed to C of A. jn (11)
9-26-75		All documents in this matter together with Certified copy of Docket Entries were on this day transmitted to Clerk, U.S.C.A. (12)
9-26-75		Copy C mailed to Clerk, U.S.C.A. (13)
9-26-75		Petition for writ of habeas corpus filed. (14)
10-29-75		Notice of motion for reargument and to vacate judgment filed. (15)
10-30-75		By RAYFIEL, J.-ORDER dtd 10-30-75 denying petitioner's application for relief of judgment or order filed. (mg) (16)
11-11-75		By RAYFIEL, J.--Order dtd 11-10-75 denying petitioner's application of 10-31-75 filed. The Clerk is directed to file a notice of appeal on petitioner's behalf. (17)
11-11-75		Petition of 10-31-75 for writ of habeas corpus filed (see entry above for decision) (18)
11-12-75		NOTICE OF APPEAL filed. Petition, order, and notice mailed to C of A with certified copy of docket entries. (19)

A TRUE COPY ATTEST-
 NOV. 11, 1975
 LEWIS CAGEL CLERK
 DEPUTY CLERK

a. LETTER DATED JULY 9, 1975 TO SIMON CHERIN

Seymour Klone: UB-14
126-02 82nd Avenue
Kew Gardens, New York 11415

Mr. Simon Chrein, Esq
Federal Defender Services Unit
Legal Aid Society
26 Court Street
Brooklyn, New York
11242

July 9, 1975

75C 1212

Dear Mr. Chrein;

I am in receipt of your letter dated July 7, to Honorable Judge Jack B. Weinstein concerning my legal difficulties; I would like to clarify your comments, and seek your assistance regarding the Federal matter.

Regarding your research and the pending state cases, as soon as I can obtain some very pertinent records and locate some witness I intend to go to trial on both these State charges. I do not intend to either "Cop-out" or plea-bargain. I am sure that you are aware that I can at any time withdraw my plea.

As to the revocation of my Federal Parole; The two arrests were on the warrant for the revocation but at the local violation hearing were discredited, along with another item: besides according to the Federal Parole rules an arrest is not a violation only a conviction is!

At the local review hearing I was represented by private counsel but, not one experienced with the Federal Parole matters; and due to circumstances he can no longer be retained.

My Federal Parole was not revoked based on the items on the warrant, but on the lies made by my U.S. Parole Officer, Mr Gerard Fennelley.

I have every intention to contend the United States Board of Parole in any available avenue regarding the reasons they based my revocation on and on the lack of Due Process accorded me. If you cannot assist me could you please recommend someone who could/ or explain to me how I can get into the Courts and contend the U.S. Board of Parole on my own.

Sir, for your information there will be either no State conviction or incarceration.

As to the furlough matter or any other matter regarding my dilemma with the Federal Authorities counsel can be of assistance if so desired, the expertise and experience of counsel in any matter can greatly assist my loved ones and I who are both being penalized beyond rationality, and unjustly.

Respectfully,
Seymour Klone

July 8, 1975

75C 1212

Honorable Judge Weinstein;

Dear sir, I hope this letter finds you and yours well.
I have not heard from the legal aid office and was told that if I filled
the enclosed papers I could get into court and contend the U.S Board of
Parole as per our previous correspondence. Please ask the Clerk or
what ever Judge is assigned to please forgive my Legal knowledge, for
time and our lives are the priority. Thank you soooo much.
With warmest regards.

Respectfully yours

Seymour Kloner

Seymour Kloner
126-02 82nd Avenue
Kew Gardens, New York 11415

The Clerk of The Court will treat these
papers as a petition for a writ of habeas
corpus, assigning the matter to a judge of the
Court in accordance with regular practice. He
shall inform the petitioner of the name of the
judge. For ordered

Jack B. Weinstein

July 21, 1975

PETITION FOR WRIT OF HABEAS CORPUS

A 10

United States District Court
Eastern District of New York

Seymour Kloner
Federal Prison #72129

Case Number _____

-vs-

United States Board of Parole

Seymour Kloner, Pro Se, presently being detained at The Queens House of Detention for Men held only under a Federal Detainer/warrant.

Seymour Kloner was sentenced to a term of five years in the above District Court on November 19, 1971 by Judge Leo F. Rayfiel after pleading guilty to Bank Larceny. Sentence was imposed under 4208 -A-2.

Seymour Kloner was granted Parole after serving twenty-two months at the Lewisburg Federal Penitentiary on September 17, 1973.

No other petitions are filed in any court at this date.

Seymour Kloner is being confined illegally both on the items the United States Board of Parole based its revocation on and also on the lack of due process from the United States Board of Parole.

For specifics please see attached Appeal.

Because of the foregoing facts, Seymour Kloner is being restrained of his liberty by the action of the United States Board of Parole; and in violation of the Constitution of the United States and by the lack of Due Process accorded him by the Board of Parole, he therefore prays that the writ be granted and an order be entered discharging him from custody.

Pro Se Seymour Kloner

Notary Public

Marshall E. Greene July 9, 75

Forma Pauperis Affidavit

MARSHALL E. GREENE
Commissioner of Deeds
City of New York 4-1156
Certificate filed in New York County
Commission Expires Feb. 1, 1977

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

A 11

Seymour Kloner

-vs-

United States Board of Parole

Petition to Proceed
in Forma Pauperis

Assignment of Counsel

Indictment No: _____

I, Seymour Kloner duly affirm that I am the above named petitioner, a citizen of the United States, over twenty-one years of age, a poor person, unable to pay the court cost or pay an attorney to contend the United States Board of Parole.

Accordingly, I, Seymour Kloner hereby petitions this court for leave to appeal as a poor person, to assign Counsel as to the above mentioned proceeding. Pursuant to Section 1101 and 1102 C.P.I.R.

Dated July 8 1975

Respectfully Submitted

Seymour Kloner
Rehator-Petitioner
pro se

To: Office of United States Attorney
Eastern District of New York

Court Clerk
Eastern District of New York

Notary

Marshall E. Greene

MARSHALL E. GREENE
Commissioner of Deeds
City of New York 4-1156
Certificate filed in New York County
Commission Expires Feb. 1, 1977

July 9, 1975

APPEAL TO THE REGIONAL DIRECTOR OF THE UNITED STATES
BOARD OF PAROLE UPON THE DECISION OF THE LOCAL VIOLATION HEARING

A 12

for Seymour Kloner

Seymour Kloner, herein after referred to as defendant, whose Parole was revoked on January 24, 1975: when said defendant reported to his United States Parole Officer, herein after referred to as the U.S.P.O. Mr. Gerard Fennelley. This Appeal to the Office of the Regional Director is in regard to the Board's decision based upon the information and discussion held on February 24, 1975 at the Federal House of Detention in New York.

This appeal will explicitly reply to the reasons for the Board's decision dated March 6, 1975 and to the items on the warrant dated January 20, 1975, signed by Mr. John Sicoli, Senior Case Analyst.

Reply to reason: Failure to report change in address;

U.S.P.O. was totally and completely aware that said defendant was residing with his fiancée' in fact, he was told that he should put down his legal residence (at his parent's apartment) on the monthly report form by U.S.P.O. Mr. Fennelley explained that if he were to put his fiancée's address on the form, that defendant would be out of the U.S.P.O.'s district and/or jurisdiction.

Mr. Gerard Fennelley was advised of this temporary change of said defendant's residence when defendant's fiancée' was advised by her Doctor (Dr. Murray Berkowitz, Brooklyn, N.Y.) that the intense headaches she was suffering for weeks with, were in fact being caused by a very high - High Blood Pressure. At that time she was advised by the above mentioned Doctor not to return to her position of employment for a period of at least two months. She was placed on a strict diet, on many forms of medication, and told to be at complete rest.

During this period, due to the fact that her parent's live out of this State; Mr. Kloner cared for her, picked-up the required medication and took her to see the Doctor almost weekly.

Subsequently the defendant's fiancée was required to undergo minor surgery and she was further confined to bed and immobilized for an additional period. (Dr. Engel of Franklin Square, N.Y. can verify the above statement) The Elmont Pharmacy can also certify all the medication she was under and who picked it up.

Reply to reason: Residing with paramour;

The defendant and his fiancée' are engaged and plan to marry as soon as defendant's divorce is finalized. The defendant is allegedly separated from his wife and this can be verified by their joint Attorney, Mr. Jack Gottlieb, This agreement was entered into and signed on May 6, 1974.

U.S.P.O. Mr. Femmelley was completely aware of the defendants realationship with his fiancée' and in fact he visited the defendants fiancée' at her apartment during the later part of December, 1974 at the time of this visit U.S.P.O. asked if their residence was going to be permanant and was told again that it was only temporary by the defendants fiancée'

Further, on December 30, 1974 the defendant was accompanied by his fiancée' in a visit to the U.S.P.O.'s office. He was then informed that she would be returning to her position of employment on January 6, 1975. The U.S.P.O. was entirely informed of where she was employed and was also advised that if for any reason the U.S.P.O. could not contact the defendant either at his position of employment or at his parent's residence he could contact the defendant's fiancée, and she would then advise the defendant.

The U.S.P.O. made no effort or attempt to contact the defendant during the period from December 30, 1974 through the day that said defendant reported to his pfice on January 24, 1975. During the first week in January of 1975 The U.S.P.O. Visited with the defendant's parents at their residence, but, at that time he did not leave any message for the defendant to contact him. If at that time he wanted to contact the said defendant as the warrant stated, why did he not leave any message?

Subsequently, when the said defendant was advised that the U.S.P.O. was going to revoke his parole, the defendant while in the office of the U.S.P.O. on a monthly report, was not granted the use of a telephone; the defendant asked if the U.S.P.O. would notify his fiancée' and the U.S.P.O. did so. The defendant at that time did not furnish The U.S.P.O. with a telephone number; this further proves that if the U.S.P.O. wanted to contact either the defendant or his fiancée' he had the required information.

To further substantiate this, the day after Christmas '1974 a letter from the U.S.P.O. was received by the defendant's fiancée' at her residence asking for the said defendant to contact the U.S.P.O. and this was done the same day as the letter was received.

Therefore, if the U.S.P.O. wanted to contact the defendant why did he not employ the meand that he used previously? Further at the time of the Local Violation Hearing the whereabouts of the defendant were completely substainsted, therefore; we can only gather from the above facts and also since all the items on the Warrant were discredited that the U.S.P.O. to save face and with the backing of the U. S. Board of Parole used the two foregoing reasons to revoke the defendant's Parole unjustly, unfairly and illegally.

Please be advised that the defendant is innocent of the two above charges as interputed by the Board, and that he WILL SWEAR TO THE ABOVE STATEMENTS AND/OR TAKE A LIE DETECTOR TEST UNDER THE PENALTY OF PERJURY.

Reply to reason: Leaving the area of supervision without permission;

Due to pressure from his wife with whom he was legally separated from on May 6th 1974, and numerous threats from her and her father (recently deceased, but a Mafia Lueitentant) the defendant was under great stress, tension and harrasment. Doctor Myers (who sent a letter to the Board under separte cover, and was present at the local violation hearing) a Psycoligist whom the defendant saw as often as possible advised that the defendant take a vacation.

The said defendant went on this vacation in his own name, and registered as same with both the Airline (Eastern) and the resort (las Brisis). He did not use any alises, or seek to obtain any false identifacation. Due to the existing pressures the defendant inquired about employment opportunities; thus, to quote from the Board of Parole rules, " Board approval is not required for temporary leave to enter another district to investigate reasonably certain employment opport*unities "

Further in Sobell v. Reed 9 Crim. Law Rptr. 2189 (S.D.N.Y. 1971) The district court held that the Board unreasonably restricted Morton Sobell's First Amendment rights by forbidding him to travel. The defendant's trip did not even exceed seven days, there was no other reason for this business-vacation, than as stated above.

Further, the hearing officer is required to advise parolee that his teatimony may be used against him, this was not explained. About two weeks after the trip the defendant was questioned about it by the U.S.P.O. and at t^hat time was told that he would not be violated due to the fact that he (the defendant) went in his own name and came back. The U.S.~~PO~~. was advised of this trip by the defendant's wife who in an obvious jealous and vindictive rage advised the U.S.P.O. While on this trip the defendant was in complete accordance with the law.

Perhaps, at this time due to circumstances the defendant was criminally irresponsible, for this was a very crucial time in said defendant's life, but, to reincarcerate this man again for another two years cannot be condoned by any reasonable person; to quote Plato " Justice will only be achieved when those who are not injured feel as indignant as those who are "

And if defendant was to be violated for this act it should have occured at the time the U.S.P.O. knew about said trip/violation not seven months later!

In regarding the above reply one can only gather again, that the Board to save face and thus uphold the status of the U.S.P.O. acted unjustly both in stateing the above reason as a violation and by stressing its seriousness, for if the Board were serious than no one reading the above could possibly agree to continue to keep this man incarcerated and thus amputated enterly from those that love and need him.

Further, the defendant is being confined illegally based on the following;

In *Arciniega v. Freeman*, U.S. 92 S.Ct. 22 1971, habeas corpus was used contending that nothing in the record justified the revocation. Nothing in the warrant issued, dated January 20, 1975 upholds the revocation of the defendant's Parole, for as a matter of record all the items on the warrant were discredited at the time of the local violation hearing; items number one and three are arrests, not convictions which are a violation, and item number two was completely discredited and proven false.

Further to quote from the record of The Supreme Court of the United States, no.71-5403, *Morrissey v. Brewer*; the court reasoned that Parole is only a correctional device authorizing service of sentence outside the confines of a penitentiary, the parolee is still in "custody".

Quoting from an excerpt of the Federal Criminal Code, submitted by James V. Bennett, former Director, U.S. Bureau of Prisons: "The total time during which the prisoner can remain subject to the jurisdiction..... of the Board of Parole can in no event exceed the maximum term imposed by the court" Thus, since the defendant's sentence began on November 19, 1971 his supervision or control by the Board could not exceed November 19, 1976. The Board is in error by extending his time under incarceration and/or jurisdiction until January of 1977.

Further to quote from a report on Federal Parole Procedures by the Administrative Conference of the United States, "If the Board revokes Parole the prisoner receives credit against his sentence for the period of Parole prior to the act of violation"

To refer again to the record of the Supreme Court of the United States, no.71-5403 *Morrissey v. Brewer*, June 29, 1972 "Rather than being an ad hoc exercise of clemency, Parole is an established variation on imprisonment, its purpose is to help individuals reintegrate into society... without being confined for the full term of the sentence imposed. It also serves to alleviate the costs to society of keeping an individual in prison. Society thus has an interest in not having parole revoked because of erroneous information or because of an erroneous evaluation of the need to revoke parole. And Society has a further interest in treating the parolee with basic fairness: fair treatment in parole revocations will enhance the chance of rehabilitation by avoiding reactions to arbitrariness. It would be unfair to assume that the supervising parole officer does not conduct an interview with the parolee to confront him with the reasons for the revocation before he recommends an arrest"

The foregoing if studied over rationally show that the circumstances did not warrant a revocation.

Further from the record of the Supreme Court regarding *Morrissey v. Brewer*; "Such great control rests in a parole officer a broad discretion in revoking parole and also in counseling the parolee" No aid or counseling was ever extended to the defendant. "If a violation of a condition of parole is involved, rather than the commission of a new offense, there should not be an arrest of the parolee and his return to prison. Rather, notice of the alleged violation should be given to the parolee and a time set for a hearing"

The above was not granted in this case, as the defendant was advised that he was being revoked upon a routine reporting date, while in the office of the U.S.P.O. on January 24, 1975. The U.S.P.O. at that fateful moment only told the defendant that he was being revoked due to the fact that the U.S.P.O. stated that he could not reach the defendant for a few weeks. The defendant was denied the use of the telephone at this time and was told to go with the U.S. Marshals. In fact, the warrant was given to the defendant not by the U.S.P.O. while said defendant was in his office, but, had to ask for the warrant while in the office of the Marshals.

To quote further, from the Biennial Report of the United States Board of Parole, dated September 30, 1971, "the values of Parole are many" At this point it should be apparent that this revocation is unwarranted, irrational, and totally pointless. The defendant could be employed and provide for his loved ones, and not cost the government to spend funds to confine him and support his dependants, especially during this period of economic recession.

Summation

In summation, the audacity to use the words on the Notice of Action from a prepared reply in the Federal Register, Volume 39, Number 109, Section 2.13, Numbers 1 and 4; as if each case is a rubber stamp of the previous one, is at once outrageous, unjust and completely uncalled for.

The thought's of the Board are only self-centered to retain that God-like power whatever the cost!!!

A prison sentence is a sentence out of the real world, a time when one's outside involvements fail or drop away, a time spent in hibernation from the world, going through the motions of life, but, not really alive, living in a vacuum.

The Board's unwillingness to face the suffering that they put their subjects through, to make out of a human being - human wreckage, destroyed by the relationships they had broken by coming to prison, can never be either understood or accepted by rational people.

In prison the very conception of the word "rehabilitation" is corrupted by circumstances that don't allow human beings to emerge; and when they are released, come out very different, different from what they could or should be.

"Rehabilitation" that foul, misused, bedraggled word, so often as now cast in our faces as a cover for the atrocious and antihuman official activity that the Board continues to misuse, by breaking human lives.

The work you do is simply without human meaning. It serves nothing, except your own interests.

It should be clear by now that the duplicity, cruelty and immoral inertia which the Board uses is at once archaic, unjust and out of the reason of humane concern, except to exercise your God-like power unweildingly, relentlessly only to what end? other than its own purpose.

How can you people go to Church on Sunday, utter words of prayer and destroy lives all week long? Do you think that by merely uttering words you will be absolved from last week's destruction, to continue the same abominations the next week?

This country should be a society in which people and life come first, in which no one is spared the truth about life and people. Our values should be the essential ones; peace, life, the land and a good life for every individual: Values that all can feel totally committed to.

Meanwhile, our entire Penal System continues to operate on a control technology created by chiefs of the Stone Age tribes. Just imagine the outcry and the uproar for reform if our hospitals used only the medical knowledge of Stone Age shamans! The penal system is not geared to do anything constructive in reference to its incarcerated.

The defendant's current charges (which will be disposed of in his favor) are the outgrowth of an attempt to create a new life; as a result he was accused of ebbezellment and was threatened and harassed. The tires on his car were cut twice, his mother was mugged, his grandfather murdered. His fiancée was also harassed and as a result of the intense pressure she developed heart trouble and High Blood Pressure. The defendant has an active Doudonal Ulcer; both are under constant medication and doctor's care. He found out the hard way that you just don't walk out when employed by Italians!

A brief look at the defendant's record while at the Lewisburg penitentiary will disclose his real character, that of sincerity and helping others, a life of non-violence but, much hurt. The officials at the Lewisburg facility can attest to this man's nature, for when imprisoned the true nature of a man is revealed. There are many letters in his file which vouch for the defendant. (names of officials who know him and will vouch for him will be supplied upon request)

A condition of release would benefit both society and the defendant's loved ones, not to mention the possible destruction of his future. Society would thus be spared the necessary funds spent on his reincarceration and in support of his loved ones on welfare. The defendant would resume to be a taxpayer and in turn ease the life of his daughter, benefit his family especially his parents who are elderly and in poor repair, both under doctors care.

Perhaps most importantly he would have the love, help, guidance and devotion of his fiancée—a chance for a real new life, and also the opportunity to have consultations with Dr. Meyers; with whom the defendant has established a rapport and trusts.

Further confinement will be of no benefit to anyone and could quite possibly destroy the lives of the defendant, his fiancée; and realistically what would the defendant have to come out to upon his release?

Now he has gainful employment waiting for him, the love and deep devotion of his fiancée. His parents are elderly and this hurt is very difficult for them to bear, this appeal will realistically be the only hope for the defendant and his loved ones. To further penalize his loved ones for a technicality is at once unfair, unjust and outright destruction.

Any serious change in human life comes very dear. No principle is worth the sacrifice of human beings.

The above statements, the entire appeal-if studied carefully, and rationally will assert to you that your action must be favorable for the lives and future of many people are seriously involved.

Thank you for your time and we hope earnest consideration,

ONLY COPY AVAILABLE

Rec'd 8/27/75

Seymour Kloner 4 -UB- 4
126-02 82nd Avenue
Kew Gardens, N.Y. 11415

Chambers of Orrin G. Judd
District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York, 11201

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. NY

August 14, 1975 AUG 23 1975

TIME A.M. _____
P.M. _____

7501212

Honorable Orrin G. Judd,

Sir, I hope this letter finds you and yours well, I am enclosing a Show Cause Petition and a supporting Affidavit for your consideration. As per previous conversation with your honor, at this time it is imperative that I be granted permission to contend the U.S. Board of Parole in every available avenue.

I have an appeal pending before the Board at present, and am appealing my original sentence, any aid that you can extend to me, on behalf of my loved ones, will be very deeply appreciated.

I understand that my Heabus corpus petition for a furlough has been given to Judge Rayfiel for consideration--hope that I will hear something of that matter soon.

Thank you for your time and consideration.

Respectfully yours

Seymour Kloner

(5)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

A 20

ORDER TO SHOW CAUSE AND
TEMPORARY RESTRAINING

Seymour Kloner, ex rel; Petitioner
against

ORDER

UNITED STATES DEPARTMENT OF JUSTICE;
UNITED STATES BOARD OF PAROLE,
UNITED STATES BUREAU OF PRISONS;
Federal Detention Headquarters-New York,*
Lewisburg Federal Penitentiary
RESPONDENTS.

CIVIL ACTION No. _____

Upon the complaint, the supporting affidavits of petitioner, and the memorandum of law submitted herewith, it is ordered that the United

that the United States Department of Justice, United States Board of Parole, United States Bureau of Prisons, Federal Detention Headquarters and the Lewisburg Federal Penitentiary; show Cause in the Court House of the United States Eastern District Court on or before August 25, 1975 at 9:30 o'clock, A.M. why a preliminary injunction should not be issued pursuant to Rule 65(a) of the Federal Rules of Civil Procedure enjoining the respondents, their successors in office, agents, and employees and all other persons acting in concert and participation with them, from granting to the petitioner a complete release from custody based on all the items on the attached, supporting affidavit.

It is further ordered that effective immediately, and pending the hearing and determination of this Show Cause order that the respondents listed above and each of their officers, agents, employees, and all persons acting in concert or in any participation with them are completely restrained from detaining the petitioner in any way, location or method.

It is further ordered that the Order to Show Cause, and supporting affidavit and any and all other papers attached to this application be served on the aforesaid respondents by the 18th day of August, 1975.

Dated: _____ day of August, 1975.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
.....

AFFIDAVIT

A 21

Seymour Kloner, ex rel. Petitioner,
against

Civil Action No. _____

UNITED STATES DEPARTMENT OF JUSTICE;
UNITED STATES BOARD OF PAROLE,
UNITED STATES BUREAU OF PRISONS
RESPONDENTS.
.....

Seymour Kloner is at present being detained at the Queens House of Detention for Men due to a decision by the United States Board of Parole.

Petitioner hereby states that his Parole was revoked illegally based on untrue statements both on the Warrant and on the subsequent reasons the Board used on its notice of action dated March 6, 1975.

Petitioner has been given the "Bureaucratic Shuffle" or the run around by the United States Board of Parole, their officers, agents, and employees; in every manner concerning either his parole status, hearing rights, appeal rights, and further has not been accorded due process of law as according to the rights based on the Constitution of the United States and on the rules of the United States Board of Parole. The above action taken and used against petitioner are tantamount to the actions of a dictatorship and not a democracy.

Further any bureau, agency or person that claims to have absolute power in its life shaping decisions must be regulated and checked by a body of higher nature, hence petitioners resort to this court. We humans are simply not saintly enough to possess absolute power and handle it properly in every instance.

This affidavit could be expounded on in many areas, for the sake of brevity and the imperative need to contend the above stated respondents in a court of law; the petitioner prays that permission be granted to appear in the court and with witnesses and documents prove all of the above statements and more.

Wherefore petitioner prays that the relief sought be granted and any and all further relief that the court deems applicable.

Dated August 13, 1975

Respectfully Submitted,

Sworn to, before me, this
13 day of August, 1975

Seymour Kloner
Petitioner, Pro se

Seymour Kloner
12602 82nd Avenue
Kew Gardens, New York, 11415

NOTARY

BURTO MIRANDA
COMMISSIONER OF DEPT.
CITY OF NEW YORK 3-15-75
Certificate filed in New York County
Commission Expires January 1, 1976

3d

A 22

PETITION FOR WRIT OF HABEAS CORPUS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Seymour Kloner, Petitioner

vs.

UNITED STATES BOARD OF PAROLE
Respondents.

Case No.

75C-1212

U.S. DISTRICT COURT E.D. NY

SEP 8 1975

Seymour Kloner #72129, is presently detained at the Queens House of Detention, New York City, due to a Federal Detainer/Warrant based upon a decision of the UNITED STATES BOARD OF PAROLE.

Petitioner was sentenced to five years for Bank Larceny on November 19, 1971 after pleading guilty. There is a Motion to Vacate Sentence pending at present.

Petitioner alleges that he is confined, detained, incarcerated, and restrained illegally due to the actions of the U.S. Board of Parole. Further, petitioner states that he was denied due process of law as per the Constitution of the United States and according to the rules of the U. S. Board of Parole.

The attached affidavit will cite facts which will more than uphold the foregoing contentions. At the granting of a hearing petitioner will present documents and witness to validate all the facts cited and more.

Petitioner alleges that his rights were and are denied, and due to health and religious reasons his very life and future is in danger.

Petitioner hereby states that he is confined illegally, persecuted unmercilessly, and amputated from his loved ones for no valid reason.

Because of the foregoing facts (expounded on in the attached affidavit), petitioner is being restrained of his liberty by the respondent in total violation of the Constitution of the United States, and he therefore prays that the writ be granted, a hearing be allowed to contend the U.S. Board of Parole in Court; and that an order be entered discharging him from custody; and any and all relief that the court deems proper, just and applicable.

Respectfully submitted,

Dated: August 19, 1975

Sworn to, before me, this
17 day of August, 1975.

Julio Miranda

Notary Public

Seymour Kloner
Petitioner Pro se.

Seymour Kloner
126-02 82nd Avenue
Kew Gardens, New York, 11415

JULIO MIRANDA
NOTARY PUBLIC OF DISTRICT
CITY OF NEW YORK 31567
Certificate filed in New York County
Commission Expires January 1, 1976

6

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

A 23

Seymour Kloner, Petitioner

vs.

United States Board of Parole,
Respondents.

AFFIDAVIT

CIVIL ACTION No. _____

Seymour Kloner, being duly sworn, deposes and says: that I am the Petitioner herein and am familiar with all of the facts stated. I am incarcerated and detained at the Queens House of Detention for Men solely due to the illegal and unjust actions of the United States Board of Parole, the Board's officers, agents, employees and all persons acting in concert or participation with them. Specifically this includes the following named individuals, but is not limited to them only; Gerard Fennelley, United States Parole Officer, Curtis Crawford, Regional Director-Eastern District, John Sicoli, Senior Case Analyst, and James E. Newman, Case Analyst.

The foregoing statement is based upon the following facts:

On a Warrant issued by the U.S. Board of Parole, dated January 20, 1975 there are three (3) allegations. Numbers one (1) and three (3) are arrests which are not a violation of Parole; and these are being contended in the courts. Number two (2) is an untrue statement alleging that Petitioner failed to report change in residence - this is a lie as Mr. G. Fennelley was totally and completely aware of Petitioner's residence up to and including the day said petitioner reported to U.S.P.O.'s office on January 24, 1975; at that date at 9:15 A.M. Mr. Fennelley told Petitioner that his parole was being revoked, this was after Petitioner was instructed to fill out his monthly report form by Mr. Fennelley and to inscribe as his legal residence 899 Montgomery Street.

The audacity of the U.S.P.O. to misguide petitioner and then to use the very item he told petitioner to write is at once a flagrant misuse of office and a demonstration of Mr. Fennelley's prejudice against petitioner and his loved ones. Under separate cover Mr. G. Fennelley will be the respondent of a lawsuit concerning the above stated items and other relevant facts which have effected many innocent people for no valid reason.

Petitioner's rights at the Local Violation Hearing were denied, as petitioner was not informed that anything he states can be held against him - this is specifically in regard to a business-vacation that petitioner sojourned on the week of July 7, 1974. Mr. Fennelley was aware of this trip during the same month and year and advised petitioner that he would NOT be revoked for this item; in January 1975 this was used against him, by the U.S.P.O. to save face and intentionally injure and harass petitioner.

Exceeding Statute of Limitations- Since it is a fact the U.S.P.O. was aware of this item, (leaving the area of supervision without permission), in July of 1974 and did not revoke petitioner then, he has no right to testify against said petitioner and invoke this item into the Hearing. In fact the U.S.P.O. was present at the Local Violation Hearing because petitioner requested his presence to confront him with the charges. This is a further misuse of office and power due in essence because the items on the warrant were discredited at the Local Violation Hearing, which was held on February 24, 1975 at the Federal Detention Headquarters in New York City.

The above further enforces view of petitioner that U.S.P.O. acted purely out of prejudice and aided and abetted petitioner's revocation. This is not his function by job definition as he is supposed to counsel and aid those people ~~from~~ whom he has reporting to him. No aid or counsel was ever extended to said petitioner.

Appeal Rights Violated- based on following facts; Petitioner ^{gave} ~~sent~~ Notice of Appeal to his Case Manager, Mr. A. Talak on March 26, 1975. Appeal was sent to U.S. Board of Parole on April 5, 1975 to the Regional Office in Pennsylvania. Information received as late as June 9, 1975 was that no Appeal was received. Valid proof will be presented upon request in courtroom, or upon request.

Finally through the persistent efforts of the Honorable Congressman Edward I. Koch, petitioner was informed that his appeal was received and that action was taken on April 10, 1975, and that said petitioner was according to the U.S. Board of Parole, advised of the action. Fact: Petitioner never received any information that this action was taken on April 10, 1975 until receipt of a letter sent to Honorable Congressman Koch by the Regional Director dated July 9, 1975.

When Petitioner informed Honorable Congressman Koch of this, the U.S. Board of Parole, now aware that due process had not been granted to said petitioner; granted permission for petitioner to Appeal to the National Review Board to cover for there inapt misshandling of petitioner's Appeal rights. Petitioner was advised that this appeal must be filled by July 31, 1975. The Board even sent petitioner a receipt that this appeal was received. This was not done on the first appeal, WHY? because petitioner was intentionally given a run-around, and in an obvious disregard for petitioner's rights.

Evidently the Board reckoned that their actions would not be contended, or rather their inactions and total disregard for the legal and humane rights of their subjects. Petitioner was given the "Bureaucratic Shuffle" and had to resort to a true government servant, the Honorable Congressman Edward I. Koch, just to obtain information that was rightfully due by April 17, 1975.

If not for the persistent efforts of the Honorable Congressman Edward I. Koch, Petitioner might never have received any information from the Board concerning his Regional Appeal, or have gained the right to a National Appeal, which is petitioner's right by law, according to the rules of the U.S. Board of Parole and petitioner's Constitutional rights.

In any event it took from April 17, 1975 until JULY9, 1975 to be advised of Parole Board's action. This intentionall missuse of power and life shaping authority inflicted cruel, extra, unnecessary and unusual punishment upon petitioner and his loved ones, a flagrant denial of rights and prejudicial action.

The Board further claims that the notice of action taken on April 10, 1975 was sent to the Federal Detention Headquarters in New York City for fowarding to me, if this was so then why was this information not sent to me?

Violation of Petitioner's Health- Petitioner hereby states that his incarceration is endangering his vital organs, his life and very future to establish a life with his devoted fiancée.

Petitioner has an active doudonal ulcer, increasing high blood pressure, an increasing loss of eyesight and stands a very high probability of becoming sterile and/or impotent.

Due to petitioner's ulcer he must be on constant medication; the condition of incarceration is in no instance condusive in easing the pain from this ulcer; further the required has a detrimental effect on petitioners eyesight, which is further diminished by the lack of sleep and poor lighting prevelant here.

Petitioner has high blood pressure which can lead to a heart attack or a stroke, due to petitioner's incarceration this condition is further aggravated. Also the lack of justive and due process have been so atrociously and unmercilessly inflicted upon petitioner that every day increases the strain upon petitioner's health.

Due to petitioner's Religious upbringing and beliefs he does not and is not allowed to masturbate. Since petitioner has been in prison since January 24, 1975 he has naturally been denied any sexual intercourse. At present petitioner suffers from pain in his back, left testicle, and finds it difficult to walk. Further, this could lead to sterility and/or impotantcy.

Petitioner often gets dizzy and has a problem with his equilibrium, this he was told is do to his condition of high blood pressure. Petitioner's health conditions are immenssly aggravated by the situation of incarceration; and all conditions of heath would be much less severe and releived if petitioner was released from custody. Further there are no valid reasons for petitioner to remain or in the first place be in prison; there are no legal and just reasons for petitioner's incarceration.

Petitioner alleges that due to his incarceration he cannot obtain the proper diet for his ulcer.

Violation of Religious beliefs-

Due to Religious reasons petitioner cannot eat any of the food served in prison. Petitioner was raised as an orthodox Jew and does not eat any unkosher food; thus he must sustain himself with what ever he can purchase at the commissary; this is very limited, basically all petitioner can eat is milk, cakes and potatoe chips. This diet is grossly lacking in the essential nutrition which is required by a ten year old child, much less an adult; petitioner alleges that irreparable damage is being done to his health due to the sole actions of the United States Board of Parole.

Further Violations of Petitioner's Religious beliefs are exemplified by the lack of Kosher food in prison and the Denial of petitioner's ability to pray (three times a day) with a quorum of ten Jews.

Petitioner hereby states that if another Jew who is also at present held in violation of his Federal Parole rights is allowed to have access to both Kosher Food and to pray as required by Religious beliefs, petitioner should be accorded same rights.

Further Rabbi Meir Kahne is serving the balance of his sentence at a half-way house; while his attorney's are in the process of various court procedures to have the court grant his present position a permanent one. This then, the petitioner cites as he is being discriminated against due to his religious beliefs and in violation of his Constitutional Rights.

Violation of Rights based on Legal facts;

In the court record of *Arciniega v. Freeman*, U.S. 92 S.Ct. 22 1971 - habeas corpus was used contending that nothing in the record justified the revocation. Nothing in the warrant issued on January 20, 1975 upholds the revocation of Petitioner's Parole. As a matter of record all the items on the warrant were completely discredited at the time of the Local Violation Hearing.

Further, to quote from the record of the Supreme Court of the United States, no. 71-5103, *Morrissey v. Brewer*; there are innumerable items applicable regarding petitioner's rights, revocation and incarceration.

Examples can also be cited from the Biennial Report of the United States Board of Parole, dated September 30, 1971; which are applicable to Petitioner's state, incarceration and condition. in total violation of the 1st, 4th, 5th, 6th, 8th, 9th and 14th Amendments of the U.S. Constitution. Page 4

SUMMATION

A 27

Petitioner could have expounded on every level quoted in the foregoing pages; but for the sake of brevity petitioner has attempted to keep things concise. Petitioner requests and prays that he be allowed to contend the U.S. Board of Parole in the Court, and that the Court grant the requests in the attached Habeas Corpus Motion, and grant any and all further relief that the Court deems applicable.

Petitioner hereby states that the actions of the U.S. Board of Parole are in every instance illegal, atrocious and unjust. The items on the warrant were discredited so to save face and for no other reason than to retain their God-like authority and in an act of relentless persurcution the Board discriminated against petitioner.

NO PRINCIPLE IS WORTH THE SACRIFICE OF HUMAN BEINGS.

Wherefore petitioner prays that the writ be granted and respectfully requests that the Court grant him and his loved ones all relief possible and applicable.

Dated August 19, 1975

Respectfully Submitted,

Seymour Kloner

Petitioner, Pro se.

Seymour Kloner

126-02 82nd Avenue

Kew Gardens, New York, 11415

Sworn to, before me, this

19 day, of August, 1975

Julio Miranda

Notary Public

JULIO MIRANDA
COMMISSIONER OF DEEDS
CITY OF NEW YORK 3-1567
Certificate filed in New York County
Commission Expires January 1, 1976

DIST/OFFICE	DOCKET YR. NUMBER	FILING DATE MO. DAY YEAR	J	N/S	O	R	R	DEMAND	JUDGE NUMBER	JURY DEM.	DOCKET YR. NUMBER
207-1	75 1379	08 21 75	2	510	1			APPEAL	0708X		1.

PLAINTIFFS

DEFENDANTS

KLONER, SEYMOUR
SEYMOUR KLONER

CLOSED
PRO SE APPLICATION
Under General Rule 26(e)

UNITED STATES DEPARTMENT OF
JUSTICE: UNITED STATES BOARD
OF PAROLE, UNITED STATES
BUREAU OF PRISONS;
FEDERAL DETENTION HEADQUARTERS,
NEW YORK;
LEWISBURG FEDERAL PENITENTIARY,
QUEENS HOUSE OF DETENTION FOR MEN

CAUSE

Pursuant to Sec. 2255
(Related Case 75-C-1212)

SEYMOUR KLONER

ATTORNEYS

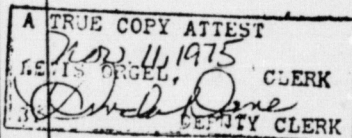
Pro Se
126-02 - 82nd Ave.
KEW GARDENS, N.Y. 11415

<input type="checkbox"/> CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
				JS-5	
				JS-6	

75C 1379

SEYMOUR KLONER vs. U. S. DEPARTMENT OF JUSTICE, ET

DATE	NR.	PROCEEDINGS
8-21-75		APPLICATION FILED PURSUANT TO SEC. 2255 (Re: 75-C-1212) (1)
8-21-75		Letter of petitioner filed dated August 18, 1975, etc. (2)
9-8-75		Letter of petitioner herein filed dated Aug. 29, 1975 addressed to Clerk, etc. (3)
9-9-75		Affidavit of Defendant herein filed dated Sept. 4, 1975, together with a letter (Notice) filed dated Sept. 4, 1975, etc. (4 & 5)
9-22-75		BY RAYFIEL, J. DECISION and ORDER rendered and filed. The court finds that a hearing herein is not warranted, and the application is in all respects DENIED. (See Decision, etc., entered in 75-C-1212)
9-23-75		Copy of letter of Clerk of Court filed dated Sept. 23, 1975 addressed to the petitionee herein re enclosure of a copy of memo., etc. (6)
9-24-75	956	JUDGMENT OF DISMISSAL filed in 75C-1212 <i>mm</i> (7)
9-24-75		Notice of appeal filed. Duplicate mailed to C of A. <i>mm</i>
9-26-75		All documents in this matter have on this day been transmitted to Clerk, U.S.C.A. together with Certified copy of docket entries. <i>mm</i>
9-26-75		Form C mailed to Clerk, U.S.C.A. <i>mm</i>
10-29-75		Notice of motion to reargue and to vacate judgment filed. See 75C 1212. (mg) --
11-11-75		By RAYFIEL, J.---Order dtd 11-10-75 denying petitioner's application of 10-31-75 filed, in 75 C 1212. Clerk is directed to file a notice of appeal on petitioners' behalf. ---
11-11-75		Petition of 10-31-75 for writ of habeas corpus filed in 75C1212 (see above entry for decision) ---
11-12-75		NOTICE OF APPEAL filed in 75 C 1212. Petition, order and notice mailed to C of a with certified copy of docket entries. ---



a. ORDER TO SHOW CAUSE AND AFFIDAVIT DATED AUGUST 5, 1975

La. UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Seymour Kloner, ex rel.
Petitioner

Against

UNITED STATES DEPARTMENT OF JUSTICE;
UNITED STATES BOARD OF PAROLE,
UNITED STATES BUREAU OF PRISONS,
FEDERAL DETENTION HEADQUARTERS-NEW YORK,
LEWISBURG FEDERAL PENITENTIARY, and
the QUEENS HOUSE OF DETENTION for Men
Respondents.

ORDER TO SHOW CAUSE

AND TEMPORARY
RESTRAINING ORDER

CIVIL ACTION No. 75 C 1379

FILED
IN CLERK'S OFFICE
DISTRICT COURT E.D. N.Y.

AUG 21 1975

TIME 11:50 AM

Upon the complaint, the supporting affidavits of petitioner, and the memorandum of law submitted herewith, it is ordered that the United State Department of Justice,; United States Board of Parole, United States Bureau of Prisons; Federal Detention Headquarters-New York, United States Federal Penitentiary, Lewisburg, Pennsylvania and the Queens House of Detention for men; show cause in the Court House of the United States District Court, Eastern District of New York, show cause on or before the 15th day of August, 1975 at 9:30 o'clock why a preliminary injunction should not issue pursuant to Rule 65(a) of the Federal Rules of Civil Procedure enjoining the respondents, their successors in office, agents, and employees and all other persons acting in concert and participation with them, from granting to the petitioner a release (furlough) from custody for a minimum period of seven days based on all the items on the attached affidavit.

It is further ordered that effective immediately, and pending the hearing and determination of this show cause that the respondents, listed above and each of their officers, agents, employees, and all persons acting in concert or participation with them are restrained from detaining the petitioner in any way, location or method.

It is further ordered that the order to show cause, and all other papers attached to this application, be served on the aforesaid respondents by the 8th day of August, 1975.

Dated: 5th day of August, 1975.

United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SEYMOUR KLONER, ex rel. Petitioner,
against

UNITED STATES DEPARTMENT OF JUSTICE:

UNITED STATES BOARD OF PAROLE,

UNITED STATES BUREAU OF PRISONS;

FEDERAL DETENTION HEADQUARTERS-NEW YORK

LEWISBURG FEDERAL PENITENTIARY,

QUEENS HOUSE OF DETENTION FOR MEN

RESPONDENTS.

AFFIDAVIT

Civil Action No. 66

75C 1379

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

AUG 21 1975 ★

Seymour Kloner, is not committed or detained by virtue of any process or mandate issued by any Court of the United States or by virtue of any judge thereof; nor is he committed or detained by the virtue of final judgement or decree of a competent tribunal of a civil or criminal jurisdiction, or the final order of such tribunal; not by virtue of an execution or other process issued upon such a judgement decree or final order.

Petitioner is currently detained at the Queens House of Detention being held due to a Federal Detainer-Warrant; this hold is due to a decision by the U.S. Board of Parole which revoked petitioner's Parole illegally and without due process of law according to the US Constitution, this action is currently under Appeal with the U.S. Board of Parole and a petition is on file at the above mentioned Court House. Also the original sentence is being appealed. This Affidavit is attached to an Order to Show Cause and a Temporary Restraining Order.

Further petitioner served twenty-two months at the Lewisburg Penitentiary, after being confined only six months, his custody was changed in THREE DAYS in order to facilitate an unescorted furlough, he returned as scheduled. Petitioner was on Minimum custody and never had any disciplinary action against him. His case was reopened by the P and granted a hearing seven months earlier than originally scheduled; as a result of this hearing petitioner was granted parole on September 17, 1973; he returned to the same position of employment that he held prior to his incarceration.

Most importantly petitioner was remanded when he reported to his U.S. Parole Officer on a routine reporting date and has been incarcerated since January twenty-fourth, 1975. There are many pressing matters that must be taken care of (see attached sheet). Petitioner has always faced Court schedules and there is no valid reason that a release not be granted.

Respectfully Submitted,

Dated: August 5, 1975

Seymour Kloner
Petitioner, Pro Se

Sworn to, Before me, this

5th day of August, 1975.

NOTARY

Julio Miranda

JULIO MIRANDA
COMMISSIONER OF DEEDS
CITY OF NEW YORK 3-1527
Certificate filed in New York County
Commission Expires January 1, 1976

(1)

ONLY COPY AVAILABLE

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ AUG 21 1975 ★

TIME A.M. _____
P.M. _____

Reason's for Furlough NEED

- 1 - To sell my car and to obtain funds due me, this I cannot arrange from here.
- 2 - To straighten out my checking account; since there were checks stolen from my car during my period of confinement. The Bank claims that I am in arrears for three hundred and ten dollars. I must make a personal visit to clear up this vital matter.
- 3 - My Fiancee' owes four hundred and fifty dollars to a Private Detective that is attempting to reach a certian party who can verify my whereabouts at the time of the original charge.
- 4 - Due to the impending sale of the house that my Fiancee' maintains an apartment; she will be confronted with two possibilities. Either an increase in her rent (which she cannot afford) or to move.

In an attempt to aid me she has drained her entire financial reserves and is now in a position of bankruptcy.
- 4 - My Fiancee' has high blood pressure and is under doctor's care. She does not have enough funds to see the Doctor. Due to my incarceration she is on the verge of losing her position of employment, since the strain is very great on her.
- 5 - To ease the mind of my parent's both whom are under doctor's care and intencly concerned about my position.
- 6 - In regarding my past record; please be aware that I was in Release in my own recognosence. Always appeared in court and always reported to my Parole Officer when due. Upon being sentenced; during withh period I was under extreme pressure and stress due to the fact that I didnot and could not have committed the crime I was charged with. Since that time events have occurred that now I can reveal certian facts, very relevent to my case as an alledged Parole Violater.
- 6 - There are members in the Bureau of Prisions that can give you facts as to the validity of my character and personality. They in fact aided me to obtain both a very quick custody reduction and also helped to persuade the Parole Board to review my case and in turn I was interviewed five months earlier and granted Parole in September of 1973. I went to work at the position that I held previously to my incarceration.
- 7 - Due to the recent death of my Father-in-Law; My wife whom I am seperated from and our three year old daughter are in dire need of funds; just to exist.

Thank you for your consideration.

A 33

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ AUG 21 1975 ★

TIME A.M.
P.M.



FIRST NATIONAL CITY BANK

ONLY COPY AVAILABLE

UNION TURNPIKE AT UTOPIA PARKWAY
FLUSHING, N. Y. 11366

March 25, 1975


Benjamin Gold
Attorney At Law
29 West 34th Street
New York, New York 10001

RE: Sy Kloner

Dear Sir,

This is to advise you that Mr. Kloner's presence is requested at this branch to clear up a few matters in reference to his checking account.

Very truly yours,


Walter C. Luhr
Manager

WCL:hc

DIST/OFFICE	DOCKET YR. NUMBER	FILING DATE MO. DAY YEAR	J.	N/S	O.	R	R 23	S	DEMAND OTHER	JUDGE NUMBER	JURY DEM.	DOCKET YR. NUMBER
207-1	75 1395	08 22 75	1	510	1				APPEAL	0703X		

PLAINTIFFS

DEFENDANTS

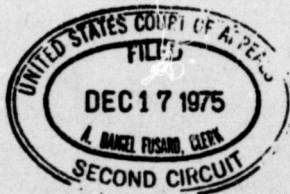
UNITED STATES OF AMERICA

KLONER, SEYMOUR
SEYMOUR KLONERPURSUANT TO SEC. 2255
(Related Case 75-C-1212)

CAUSE

DAVID G. TRAGER
U.S. ATTORNEY
225 Cadman Plaza East
Brooklyn, N.Y. 11201

ATTORNEYS

SEYMOUR KLONER
PRO SE
126-02-82nd Avenue
Kew Gardens, N.Y. 11415
☒ CHECK
HERE
IF CASE WAS
FILED IN
FORMA
PAUPERIS

FILING FEES PAID

DATE
08-22-75

RECEIPT NUMBER

C.D. NUMBER

STATISTICAL CARDS

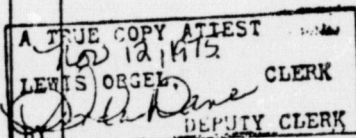
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JS-5	
JS-6	

75C 1395

U.S.A. vs. SEYMOUR KLONER

A 35

DATE	NR.	PROCEEDINGS
8-22-75		APPLICATION FILED PURSUANT TO SEC. 2255- to vacate sentence, etc. (1) (Re: 75-CR-1212)
9-22-75		BY RAYFIEL, J. DECISION and ORDER rendered and filed. The court finds that a hearing herein is not warranted, and the application is : all respects DENIED. (See Decision, etc., entered in 75-C-1212)
9-23-75		Copy of letter of Clerk of Court filed dated Sept. 23, 1975 re enclo- sure of a copy of memo., etc. (2)
9-24-75	56	JUDGMENT OF DISMISSAL dtd 9-24-75 filed in 75C-1212. <i>mg</i>
9-24-75		Notice of appeal filed. Duplicate mailed to C of A. <i>mg</i> Jn (5)
9-26-75		All documents together with Certified copy of Docket Entries were on this day transmitted to Clerk, U.S.C.A. <i>mg</i>
9-26-75		Form C was on this day mailed to Clerk, U.S.C.A. <i>mg</i>
10-29-75		Notice of motion for reargument and to vacate judgment filed. See 75C 1212- (mg) --
11-11-75		By RAYFIEL, J.---Order dtd. 11-10-75 denying petitioner's application of 10-21-75 filed, in 75 C 1212. Clerk is directed to fil a notice of appeal on petitioner's behalf. ---
11-11-75		Petition of 10-31-75 for writ of habeas corpus filed in 75c1212 (see above entry for decision). ---
11-12-75		NOTICE OF APPEAL filed in 75 C 1212. Petition, order and notice mailed to C of A with certified copy of docket entries. ---



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a. LETTER TO B. KRIVISKY DATED AUGUST 19, 1975

A 36

Seymour Klonev
126-02 82nd Avenue
Kew Gardens, New York, 11415

Mr. B. Krivisky
Office of the Clerk
Eastern District of New York

August 19, 1975

75C 1395
R.M. 1, 1.

Dear Mr. Krivisky,

I am enclosing for filling with the Court three (3) copies
of a Motion to Vacate Sentence. Please advise me of any results.
Thank you.

Yours truly

Seymour Klonev

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ AUG 22 1975 ★

TIME A.M.
P.M.

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UNITED STATES OF AMERICA

VS.

Seymour Kloner, Defendant.

★ AUG 22 1975 ★ MOTION TO VACATE SENTENCE

TIME A.M. (Re: 28 U.S.C. §2255)

P.M.

Case No. 75C 1335

Seymour Kloner #72129, being duly sworn, deposes and says; that I am the defendant herein stated and am familiar with all the facts. I am presently detained at the Queens House of Detention for Men, due to a Federal/ Detainer/Warrant, placed by the U.S. Board of Parole, ^{whom} illegally and unjustly revoked my parole. Appeal is pending with the U.S. Board of Parole and a Habeas Corpus Motion is on file with the Eastern District Court, more to follow.

I was sentenced to five years, by the above court, by Honorable Judge Rayfiel, on November 19, 1971 for Bank Larceny. Sentence was imposed under 4208 A-2. I do not know the indictment number. Sentence was passed after a plea of guilty. The above sentence was not appealed because I was not informed that by my Attorney, Arron Schaker, Court Street, Brooklyn, New York.

I wrote to the Honorable Judge Rayfiel for a reduction of sentence but was advised that he could not help me; so I did my time and served twenty-two months at the Lewisburg Federal Penitentiary. On January 24, 1975 the U.S. Board of Parole revoked my Parole illegally, ^{unjustly} and since that date I have been given the run-around by the Board.

Prior to sentencing my attorney stated that I would receive a sentence of Probation for two years; that he worked out a deal with the U. S. Attorney Anthony Accetta. Mr. Schacker however did not appear at the sentencing, and sent an associate, someone I had never met before. I was fooled and coerced by both lawyers.

Further I was under much mental strain at the occasion.

Wherefore, I pray that the relief be granted and an order to Vacate Sentence be imposed. Thank you for your consideration.

Dated: August 19, 1975

Sworn to, before me, this
19th day of August, 1975.

Julie Miranda
Notary Public

Respectfully submitted,

Seymour Kloner

Defendant, Pro se

Seymour Kloner

126-02 82nd Avenue

Kew Gardens, New York, 11415

JULIE MIRANDA
COMMISSIONER OF DEEDS
NEW YORK 3-1567
County of New York
Comm. expires January 1, 1976

6W
JUL 22 1975
★ AUG 22 1975 ★
U.S. DISTRICT COURT E.D. N.Y.
CLERK'S OFFICE
FILED

DATE	PROCEEDINGS
11-19-71	Before Rayfiel, J - Case called - Deft & counsel Meyer Chazanov present - Deft sentenced to 5 years imprisonment under 18:4208(a)(2) on ct. On motion of Asst Accetta count 1 is dismissed.
11-19-71	Judgment and Commitment filed - certified copies to Marshal.
1/9/76	Stenographers Transcript dated 9/2/71 filed
1/13/76	<i>1 such for compensation of report services filed</i>

AVL:ATA:pa
F. 711573

9. INDICTMENT

A 40

71CR 461

MAY 6 1971

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA

-against-

SEYMOUR KLONER,

Defendant.
----- X

Cr. No.
(T. 18, USC, §2113(a) and
§2113(b).)

THE GRAND JURY CHARGES:

COUNT ONE

On or about the 19th day of February 1971, within the Eastern District of New York, the defendant SEYMOUR KLONER knowingly and wilfully, by force, violence, and intimidation, did take from the person and presence of employees of the Pioneer Savings and Loan Association, 1111 Pennsylvania Avenue, Brooklyn, New York approximately One Thousand Nine Hundred Seventy Four Dollars (\$1,974.00), in United States currency, which money was in the care, custody, control, management and possession of the said savings and loan association, the deposits of which savings and loan association were then and there insured by the Federal Savings and Loan Insurance Corporation. (Title 18, United States Code, §2113(a).)

COUNT TWO

On or about the 19th day of February 1971, within the Eastern District of New York, the defendant SEYMOUR KLONER knowingly and wilfully took and carried away with intent to steal, money in excess of \$100.00, to wit: \$1,974.00, which was in the care, custody, control, management and possession of the Pioneer Savings and Loan Association, 1111 Pennsylvania Avenue, Brooklyn, New York, the deposits of which savings and

pc-51317
Cite 4/3/71
5/1/71
(S)

loan association were then and there insured by the Federal Savings and Loan Insurance Corporation. (Title 18, United States Code, §2113(b).)

A TRUE BILL

Foreman

EDWARD R. NEAHER
United States Attorney
Eastern District of New York

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U.S. Atty Genl	
Criminal Division	
Prepared	Date
Checked	
Approved	
Date of filing	

15

10. JUDGEMENT AND COMMITMENT

A

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111573 *Ortuta*

JUDGMENT AND COMMITMENT (Rev. 2-68)

Cr. Form No. 25a

United States District Court FOR THE EASTERN DISTRICT OF NEW YORK

United States of America

v.

SEYMOUR KLONER

No.

71 CR 461

On this 19th day of November
 government and the defendant appeared in person and

1971 came the attorney for the
 counsel

IT IS ADJUDGED that the defendant upon his plea of *guilty*, and the court being satisfied that there is a factual basis for the plea

has been convicted of the offense of violating T-18, U.S.C. Sec. 2113(b), in that on or about February 19, 1971, the defendant knowingly and wilfully took and carried away with intent to steal, money in excess of \$100, which was in the care, custody, control, management and possession of a bank, the deposits of which savings and loan association were then and there insured by the Federal Savings and Loan Insurance Corp.

as charged in count 2

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of 5 years pursuant to T-18, United States Code, Sec. 4203(a)(2) on count 2. On motion of Asst. U.S. Attorney Accetta count (1) is dismissed.

~~IT IS ADJUDGED THAT~~

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

The Court recommends commitment to⁶

51 *[Signature]*
 United States District Judge.

Clerk.

A True Copy. Certified this

day of

(Signed)

Clerk.

(By)

Deputy Clerk.

11. APPEAL BY PETITIONER DATED OCTOBER 16, 1975
IN THE COURT OF APPEALS OF THE UNITED STATES - NEW YORK

OCT 28 1975

A. 43

SEYMOUR KLONER, ex. rel.,
Petitioner
- against -

United States Department of Justice;

United States Board of Parole

Respondents.

- * APPEAL FROM DENIAL IN THE UNITED STATES DISTRICT
- * COURT - EASTERN DISTRICT OF NEW YORK,
- * AND AFFIDAVIT.
- * Re: Court of Appeals No. T - 2206
- * Re: Eastern District Court Docket
- Numbers 75C1212, 75C1379 and 75C1395

5221

Seymour Kloner, being duly sworn, deposes and says: That I am the petitioner herein and am familiar with all of the facts stated heretofore.

Petitioner is being detained and incarcerated unjustly, illegally and in violation of the rules of the U.S. Board of Parole, without being afforded due process of law by the U.S. Board of Parole; as is per guarantees of the 1,4,5, 6,8,9, and 14th Amendments of the Constitution of the United States. This is due solely because of the actions taken against petitioner by the U.S. Board of Parole.

Petitioner has twice appealed to the U.S. Board of Parole and was given the bureaucratic shuffle each time; further the Board upheld the original decision to revoke petitioner's Parole made on February 24, 1975, which was based on lies made by U.S.P.O. Gerard Fennelley.

Petitioner submitted to the Eastern District Court, pro se, five (5) separate applications as listed below;

- 1- Show Cause and Temporary Restraining Order, dated 3/5/75, to obtain a furlough.
- 2- Show Cause and Temporary Restraining Order, Dated 3/13/75, To obtain a hearing to be granted release.
- 3- Motion to Vacate Sentence, dated 3/19/75
- 4- Habeas Corpus Motion, dated 3/13/75, all encompassing: re: Parole, Civil Rights.
- 5- Application for Order Staying Execution of Judgment, pending Parole Board Appeal, Hearings at Court, Vacate Motion.

these were filled to regain Petitioner's Rights in a relentless quest for justice and freedom.

Your Petitioner also filled a Forma Pauperis motion with the first application; further a Habeas Corpus motion was filled, dated 9/23/75 to request hearings on the above motions, but in a decision rendered 9/22/75, by the Honorable Judge Rayfiel of the Eastern District Court, the applications were in all respects denied, therefore the reason for this Appeal

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-2- O O A 44

All these motions were combined in front of one Judge—the same Judge who previously imposed sentence on petitioner on November 19, 1971; they were replied to in a memorandum decision dated 9/22/75, in four and a half pages of double-spaced typing, which include two (2) pages of statements made by your petitioner, but, not replied to, only quoted therein, as attested to by the enclosed copy of Judge Rayfiels Decision.

Your Petitioner has spent many months; reading, researching and typing the applications which were submitted to the Eastern District Court—I have been wrongly and unjustly incarcerated since January 24, 1975, and if necessary I will pursue this matter to the highest court in the land to obtain a humane justice.

Further, since the Honorable Judge Rayfiel is currently in his late eighties, perhaps the burden of his office is too great, and with all due respect, if this panel of Appellate Justices will study this appeal, and all the papers heretofore attached, you will undoubtedly ascertain that the decision rendered in the Eastern District Court was not in order and not sufficiently replied to. The audacity not to even reply to 7/3 of the items stated is beyond comprehension—this is not a legal duel, but rather, a vital life-shapeing matter.

Now Petitioner will reply to the decision rendered by the Honorable Judge Rayfiel on September 22, 1975:

Firstly I wish to state that all the motions were an attempt to obtain a hearing, for clarification and to contend the actions of the U.S. Board of Parole in Court. Please be advised that these were the first applications that petitioner ever submitted to any court, and it was done due to lack of funds for counsel—though attempts were made to secure counsel through the Legal Aid Society, The Queens County Bar Association, The Salvation Army, The Jewish Family Service, The Citizens' Inquiry on Parole and Criminal Justice and others. Also aid was sought by petitioner from Senators Kennedy and Javits, Congressman Koch, Judges Judd and Weinstein, from former Attorney General Ramsey Clark, William Buckley Jr. Assemblyman Stanley Fink and Governor Carey. Even the Honorable President Ford was contacted.

I have appealed twice to the U.S. Board of Parole and all the above was done pro se; I alone did all the research and typing—these last nine months have been pure torture and agony for my loved ones and well as I; my Parole was revoked for no valid reason.

I respectfully request that this appeal be considered by your Honors, and that you realize all I am seeking is justice, tempered by humanity, in behalf of my loved ones. Please excuse the length of this document, but I feel that it is necessary to explain, with the most possible brevity that I can—all the facts pertaining to our plight.

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Now, specifically regarding the charges that the U. S. Board of Parole based petitioner's revocation upon;

Please be aware that on the warrant for revocation these items were not mentioned: further, all the items on the warrant were totally discredited at the Local Violation Hearing, which was held at the Federal Detention Headquarters, New York, on February 24, 1975. These items were first brought up at that Hearing, were used in complete deceit by U.S.P.O. Mr. Gerard Fennelley, who was present at that Hearing due to the request of your petitioner, because petitioner knew of the invalid facts on the warrant and wanted to face and to contest his unjust revocation.

Item #1 - You can refer to a copy of my Appeal with is attached to answer that unfounded allegation; but further, I will swear to the fact that the U.S.P.O. knew where I was residing and with whom, under the penalty of Perjury; or I will gladly submit to a lie detector or any truth serum test.

Further, My fiancée' will attest to the fact that not only did the U.S.P.O. visit at this residence during the month of December '74, but also that he mailed a letter to your petitioner at that address right after Christmas '74. Thereby permission and knowledge was imposed, he further at the occasion of the visit inquired if the residence was to be of a permanent nature, and was advised, again, that it was only of a temporary nature. Further, the U.S.P.O. advised me to obtain an apartment within the five boros of New York City, because I was residing just over the county line in Nassau county, which he told me was out of his district/jurisdiction. He told me to inscribe on the monthly report form my parent's address--this was up to and including the 24th day of January, 1974, when He told me my parole was being revoked, because he claimed that he could not locate me from on or about January 9, 1975. This claim was proven false at the Local Violation Hearing as it was validated by many written statements that I was in the area I was supposed to be.

Mr. Fennelley knew that I was residing with my fiancée', (whom after nine months of this unfair agony visits me every evening permitted, takes care of my clothes and has written to many people in my behalf upto and including the Honorable President Ford!!), since she developed high blood pressure during September of 1974, had to be at complete rest and under constant medication. During this period your petitioner took care of his dear fiancée', picked up the required medication for her, [which can be validated by the Elmont Pharmacy] and took her to see the doctor, as required.

Thus U.S.P.O. Mr. Gerard Fennelley abused the powers of his office in an outright disregard for any justice or humanity, concerning either Miss Karen Pasenbaker, petitioner's fiancée'; petitioner's parent's, and aided and abetted the revocation of petitioner's Parole without any justice in an outright prejudicial move

Further, regarding item #1, My parent's will attest to the fact that I was told to put their address on my monthly report by Mr. Fennelley

In reply to the charge that petitioner left the Area of Supervision without Permission:

Mr. Fennelley knew about the trip in the same month it occurred and petitioner was told that he would Not be violated for it due to the fact that petitioner went in his own name and returned—a further item pertaining to this allegation was that this trip was of a business-vacation nature and was recommended by Dr. Marvin Myers [who testified at the Local Violation Hearing and sent a letter to the Board to aid your petitioner at the occasion of his Regional (Philadelphia) Appeal]

At the Local Violation Hearing on February 24, 1975, all the items on the warrant were discredited, and U.S.P.O. who was present due to the request of your petitioner, who wanted to confront him and the charges, used this item against petitioner unfairly, as U.S.P.O. knew of this trip in July '74, the same month it occurred, and if petitioner were to be violated for it, the revocation should have occurred then, NOT seven [7] months later!! This is further proof of predjudicial action taken against petitioner because ^{U.S.P.O.} he did not enjoy the fact that petitioner's fiancée was converting to Judaism as one very important facet towards marrying your petitioner.

U.S.P.O. used the charge of leaving the area without supervision to save face, as all the items on the warrant for revocation were discredited. This is a total abuse of office and discretion in adding to revoke petitioner's Parole. This was an obvious disregard for the humane concern for petitioner and his loved ones, and in total disregard of petitioner's Doctor's recommendation.

Further, petitioner was told to remain incarcerated until another hearing in January of 1977!!, for a trip recommended by a Doctor, where petitioner went in his OWN Name and did not seek to obtain false identification, or commit any crime on this trip!! This is in total abuse of any discretion by the Parole Board and an example of its God-like attitude and ^{God-like} power.

Thus, the reason and main thrust for petitioner's relentless fight which I will pursue in any available avenue in my quest for justice and freedom.

With all due respect to the Honorable Judge Rayfiel, he is mistaken that petitioner never challenged the findings or actions of the U.S. Board of Parole. Evidentially he did not read my two appeals to the Board or the five [5] applications that were submitted to his court, and if he did—why did he not reply to them????

This is my first application to this court and how I pray that it will be my last—but, be assured that I will never cease this battle until my loved ones and I are vindicated, and we receive justice freedom and peace of mind!!

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Further abuse in discretion of revocation action: based on the actions of the U.S.B.O. and his fraudulent actions and advice to your petitioner. The charge of change of residence is untrue—use of leaving the area when under duress, pressure and under physicians recommendation is not a sufficient reason for revocation. The mere fact that at the Local Violation Hearing all the items on the warrant were discredited and that the untrue statement of the U.S.P.O. in regard to change of residence was upheld by the Board, is a further example of injustice, prejudice and not only abuse of discretion in revocation action—the reasons used for my revocation were not on the warrant for revocation.

Violation of Due Process:

On March 26, 1975 petitioner submitted a notice to Mr. A Talak at the Federal Detention Headquarters in New York, stating that your petitioner would appeal the Board's decision in their action taken on March 6, 1975. The Appeal was mailed to the U.S. Parole Board and received by them on April 7, 1975. Petitioner wrote to the Board to receive notification of the results of this appeal; not until the 23rd of June 1975 did petitioner find out the results of the first (Regional) Appeal. This was through the diligent efforts and sincere concern of the Honorable Congressman Edward I. Koch.

Upon receipt of this information petitioner then wrote to the Regional Director, M. C. Crawford, to request his right to appeal, since I am in possession of a letter dated June 5, 1975 stating that the Board has no record of my appeal at the Regional Office. More than two (2) months elapsed between the Board receiving my first appeal and being notified of its decision. The Parole Board rules state that the decision will "be mailed or transmitted to the prisoner within fifteen (15) working days of the date of the hearing", thus that should have been fifteen (15) days from April 10, 1975.

It is patently unfair, unjust, illegal and outrageous to have inflicted this extra cruel and unusual punishment upon petitioner's parent's, Petitioner's fiancée and petitioner himself, there can be no valid reason or explanation for this delay to have been inflicted.

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Regarding Judge Rayfiels statement as to my admitting the violations at the Local Violation Hearing—your petitioner admitted where I resided and the fact of the trip taken—Dr. Myers testified on the need for this trip and that he recommended same.

The findings of the U.S. Parole Board were challenged in both appeals; contrary to the Honorable Judge Rayfiel's statement, as to further statement that violations were not without U.S.P.O.'s permission, petitioner stated previously and will reiterate again that under penalty of perjury he would testify both that U.S.P.O. knew where he was residing and with whom, and further that U.S.P.O. when advised of trip told petitioner that he would not be violated for it.

Regarding the Motion to Vacate Sentence:

There was not only a "deal", but pressure and coercion, and a request for One thousand Dollars (\$1000.00) made by a court appointed counsel, Arron Schacker. My mother will validate that he asked for money, this he claimed was for expenses.

There were other deals that this attorney worked out, (with the brothers Arthur and William Hotaling), where they were promised probation by this attorney and later "railroaded". At the time of sentencing your petitioner was not represented by appointed counsel (Schacker) but by an associate, whom I only met that morning!

I distinctly stating^{ed} at the time sentence was passed "Accetta, what are you doing?" this was to U.S. Attorney Anthony Accetta. I also wrote to him from the Lewisburg penitentiary, but received no reply.

As to vague unsupported claim, petitioner filled Motion to Vacate Sentence to contend both parties in a court of law—how can it be supported if no hearing was granted? Plea of guilty was made under advice of council and the deal he told me he made. How can I have this in writing, it is well known that "deals" are made every day; but no one puts it on paper. If I only would have known then what I know now how very different my life would be. I MORE than paid for the charge that I pleaded guilty to, I served twenty-two months in a Federal Penitentiary at Lewisburg, Pa.

Upon my release I returned to the same position of employment that I held prior to my incarceration. I was "in the streets" for over sixteen months, on Parole; during that period I lost my wife and we legally seperated in April of 1974. As GOD is my witness I was such a fool, now for the first time in my life I have the complete love, honesty and devotion of a wonderful woman—I swear that my parole was revoked unjustly and unfairly.

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As to the relief that petitioner seeks and the Honorable Judge Rayfiel states that "This court is without power to grant the relief he seeks because he is no longer in federal custody." I am only in any form of custody due to the actions of the U.S. Board of Parole, there is a federal detainer keeping me incarcerated. Further if the Honorable Orrin G. Judd, of the Eastern District court can impose an order effective here-regarding the housing of one man to a cell; then Judge Rayfiel has the power to grant the relief your petitioner seeks.

Secondly, if another man, also held as parole violator is permitted to be housed at a half-way house, so that he may practice his religious beliefs, as to praying with a quorum of ten Jews and eating kosher food, your petitioner should also be entitled to the same rights and privileges. The Eastern District court granted the application of Meir Kahane pursuant to the First, Eighth and Fourteenth Amendments of the U.S. Constitution. Further he has also been permitted to give lectures and is "out of Custody" seven hours a day. If this is denied to your petitioner it will be in total violation on his constitutional rights and a definite prejudicial action, which I will no doubt contend. But I sincerely feel that this will not be necessary if all herein is taken into earnest consideration.

In any event your petitioner in no way sought that the sentencing court should have control of this, or any other prison administration. What your petitioner sought by filling the applications with the Eastern District Court was justice, my rights as per guarantees of the above mentioned amendments of the U.S. Constitution, a hearing to contend the U.S. Board of Parole, and as a result to be released from prison, only because I am wrongly incarcerated.

I will not belabor you with the details of my case, except to say, that if your petitioner is granted a hearing in court, not the unfairness of such granted by the U.S. Board of Parole—the vast preponderance of evidence that I can present, with documents and witnesses, will indicate that I have been incarcerated wrongly and I pray that on behalf of my parents and fiancée that the due process I seek from this court will eventually make us whole. However a decision of the court rendered months from now may not be sufficient to bring back the lost health of my loved ones!!

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The U.S. BOARD OF PAROLE definitely did abuse its discretion in revoking your petitioner's parole, and therefore not only is it my right to seek relief from the court, but it is the duty of the court to interfere.

The charge of leaving the area without permission is being used against your petitioner unfairly. This trip was under the express advice of a Doctor, who was present and testified at the Local Violation Hearing. Your petitioner was under much pressure and duress and, while on this trip sought employment. To quote from the Rules of the U.S. Board of Parole "Board approval is not required for temporary leave to enter another district to investigate employment opportunities"

Further, in Sobell v. Reed, 9 Crim. Law Rptr. 2139 (S.D.N.Y. 1971) the District Court held that the Board unreasonably restricted Sobell's First Amendment rights by forbidding him to travel.

Petitioner's appeal to the Board is attached and also quotes many legal precedents concerning parole revocation and its procedure, specifically as it applies to your petitioner.

SUMMATION

First, I respectfully request that you kindly read my Appeal to the U.S. Board of Parole. The appeal and this appeal and all the attached papers will more than validate that I have been wrongly and unjustly incarcerated since January 24, 1975, when while in the office of the U.S.P.O. I was informed that my Parole was being revoked. To be incarcerated until January of 1977, until a hearing by the Board is at once a miscarriage of justice and a violation of my rights as per the guarantees of the U.S. Constitution.

I respectfully request that at the very least based on all the facts to be granted a hearing to contend in court the above mentioned respondents and to have this court release your petitioner from any form of imprisonment. This I pray will be granted to prevent a failure of justice from being issued to your petitioner.

Please be aware, ^{my wife} is much more at stake regarding this matter than appears at the surface. The very life and health of my fiancée is also in peril, and this can be confirmed by Dr. Berkowitz, who has been treating her for over a year. It is patently unfair for my parent's to have to suffer so needlessly and for Karen to go through this continued torment due to the unjust actions of the U.S. Board of Parole.

NO PRINCIPLE IS WORTH THE SACRIFICE OF HUMAN LIFE!!!!!!!!!!!!!!!!!!!!!!!!!!!!

ONLY COPY AVAILABLE

Because of the foregoing facts, petitioner is being restrained of his liberty by the respondent in violation of the Constitution of the United States, and we therefore pray that this appeal and all the attached papers will be carefully and earnestly considered; so that at the very least a Hearing be granted to obtain true justice, to finally end this pointless agony inflicted upon petitioner and his loved ones: so that he may return to work and have a real life with those that love and need him.

Wherefore, we pray that an order be entered discharging your petitioner from custody. Thank you for your time and effort. Please excuse my lack of knowledge of law regarding this application, and if there are any further questions, please be advised that I will be most pleased to reply in their regards.

Further, please be informed that I wish to proceed in Forma Pauperis, which permission was granted in the Eastern District Court; also since there are so many items pertaining to this situation I respectfully request that permission be granted for me to proceed pro se, (as my own attorney).

DATED: October 16, 1975

Respectfully submitted,

Seymour Hloner

Petitioner, Defendant, pro se

Seymour Hloner

126 - 02 82nd Avenue

Kew Gardens, New York 11415

Sworn to, before me, this 17 th day of October 1975

Marshall E. Greene

NOTARY PUBLIC

MARSHALL E. GREENE
Commissioner of Deeds
City of New York 4-1156
Certificate filed in New York County
Commission Expires Feb. 1, 1977

ONLY COPY AVAILABLE

In The UNITED STA. COURT OF APPEALS - For The SEC. 2 CIRCUIT

A 52

UNITED STATES DEPARTMENT OF JUSTICE,

UNITED STATES BUREAU OF PRISONS,

UNITED STATES BOARD OF PAROLE,
Respondents,

- against -

Seymour Kloner,
Petitioner, Pro se.HABEAS CORPUS PETITION FOR
STAY OF JUDGMENT

Case No. _____

I, Seymour Kloner, being duly sworn, depose and say: That I am the Petitioner herein and am familiar with all of the facts stated heretofore;
Pursuant to The Federal Rules of Civil Procedure, specifically Rule 62 (c) I respectfully request the Court to grant your Petitioner a Stay of Judgment, pending the outcome of your petitioner's Appeal Docket No. 75-2136, which upon brief was filed in this Court on January 20, 1976. This Brief for your Petitioner, (Appellant) was filed on appeal from an Order of the United States District Court for the Eastern District of New York.

Accordingly, due to the fact that your Petitioner has been incarcerated over one year at the present time, specifically due to the actions stated in the brief; I respectfully request that the Court grant this stay of Judgment so that your petitioner may be released in his own recognizance.

Due to this illegal, unjust and totally unfair incarceration your petitioner, and his loved ones have suffered intensive hardship and agony; in view of the fact that a decision will be rendered on these matters in a short while, (possibly months), and that justice will finally prevail, to make us whole again, it is respectfully requested that the court issue an order for your petitioner to be granted this release from incarceration.

At present your Petitioner has been transferred to the Federal Correctional Institution in Danbury Conn. This geographical relocation renders visits from his loved ones all but impossible.

Your Petitioner's parent's are both sick and under doctor's care. His Mother suffers from high-blood pressure and has a valvular problem with her heart; this requires constant medication and doctor's care. Thus, she could not possibly exert the effort required to travel to see your Petitioner. We have been going thru all this hell for over a year now; it is patently unfair for your petitioner's incarceration to continue. Your petitioner is denied here with his loved ones to care for and/or visit them, not in prison, to sit in inactivity and worry, a burden on the taxpayers, this incarceration serves no valid purpose, other than to inflict hurt and torture further; my loved ones need me. A decision rendered by the court months from now will not restore the lost health of my loved ones or myself. THEREAS, your petitioner respectfully requests and prays that the Court release him on his own recognizance, pending the decision to be rendered by this court regarding his appeal. Thank you for your consideration.

Dated: January 24, 1976

Given to, before me, this 27
day of January 1976.

Respectfully submitted,

Seymour Kloner
Seymour Kloner, petitioner, Pro se

672129 - Danbury House

Post Office Station, Danbury, Conn. 06810

UNITED STATES AT ORNEY
ED. DEB. 55:11. K.R. Simpson, Caseworker
Authorized by the Act of July 27, 1955
to administer oaths (18 U.S.C. 4004)

KATAN PUBLIC

ONLY COPY AVAILABLE

NOVEMBER 18, 1975

RJD:SM:mt
P.6UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

----- X

SEYMOUR KLONER, ex rel.,

Petitioner,

AFFIDAVIT IN
OPPOSITION

- against -

UNITED STATES DEPARTMENT OF JUSTICE;
UNITED STATES BOARD OF PAROLE;
UNITED STATES BUREAU OF PRISONS;
FEDERAL DETENTION HEADQUARTERS, NEW
YORK; LEWISBURG FEDERAL PENITENTIARY;
QUEENS HOUSE OF DETENTION FOR MEN,

Respondents.

----- X

STATE OF NEW YORK)
) SS.:
COUNTY OF KINGS)

STANLEY MARCUS, being duly sworn, deposes and

says:

1. I am an Assistant United States Attorney for the Eastern District of New York, duly appointed according to law. I make this affidavit in opposition to petitioner's appeal and various other applications from the judgment and orders rendered by the Honorable Leo J. Rayfiel, United States District Judge for the Eastern District of New York, on September 22, 1975, October 30, 1975, and November 10, 1975, respectively.

2. On November 19, 1971 petitioner, Seymour Kloner was sentenced by the Honorable Leo J. Rayfiel to a term of imprisonment of five years, pursuant to Title 18, United States Code, §4208(a)(2). This followed a plea of guilty which petitioner entered to a charge of bank larceny, pursuant to Title 18, United States Code, §2113(b).

3. On January 24, 1975 petitioner's parole was revoked, and he was re-incarcerated at Federal Detention Headquarters, New York. Petitioner was charged with violating his parole conditions in that he failed to report a change of residence to his parole officer, and that he left the area of his parole supervision without permission.

ORIGINAL COPY AVAILABLE

5. On February 24, 1975 a full parole revocation hearing was held at Federal Detention Headquarters. Petitioner was represented by Benjamin Gold, Esq., 29 West 34th Street, New York, New York, at that hearing. The charges against petitioner were fully sustained and his parole was revoked.

6. On March 6, 1975 and April 10, 1975 the revocation of petitioner's parole was affirmed by the Northeast Regional Director of the United States Parole Board; and on August 13, 1975 the National Appellate Board of the United States Board of Parole affirmed the order of April 10, 1975.

7. On July 28, 1974 petitioner was arrested in Kings County on a charge of larceny. Again, on January 6, 1975 petitioner was arrested in Queens County and charged with larceny. After entering pleas of guilty both in Kings and Queens County, petitioner was sentenced on November 6, 1975, in Kings County, by Supreme Court Judge Vetrano to a term of two-to-four years, to run concurrently with his federal sentence. On November 11, 1975 petitioner was sentenced in Queens County, by Supreme Court Judge Brennan to a term of one-and-one-half-to-three years, to run concurrently with his federal sentence.

8. Petitioner is presently incarcerated at the Queens House of Detention, Queens, New York.

9. Without waiving any jurisdictional defects which may inhere in petitioner's various applications, we respectfully note that, as the District Court found below, the record amply supports the factual findings of the Parole Board, and the resulting revocation of petitioner's parole. The Board acted well within its statutory powers, and petitioner's various motion papers suggest no new basis for any relief.

WHEREFORE, your deponent respectfully requests that

petitioner's appeal and various applications and motions be denied.

15 /

Stanley Marcus
Assistant U.S. Attorney

Sworn to before me this
18th day of November 1975.

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

* NOV 11 1975 *

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TIME AM _____
P.M. _____

-----x
SEYMOUR KLONER,

Petitioner,

75 C 1212 ✓

- against -

75 C 1379

75 C 1395

UNITED STATES DEPARTMENT OF JUSTICE;
UNITED STATES BOARD OF PAROLE;
UNITED STATES BUREAU OF PRISONS;
QUEENS HOUSE OF DETENTION FOR MEN,

Respondents.

-----x
RAYFIEL, J.

Petitioner's application "for writ of habeas corpus" by petition dated October 31, 1975, is denied.

The contentions of the petitioner were passed upon and resolved in the decision of this court dated September 22, 1975. There are no allegations, nor authorities, in the current petition which might induce any variance from the disposition in that decision.

This decision constitutes an ORDER. The Clerk is directed to file a notice of appeal on petitioner's behalf.

Dated: Brooklyn, New York
November 10, 1975

U. S. D. J. *George [Signature]*

A TRUE COPY ATTEST
NOV 10 1975
LEWIS ORGEL CLERK
BY *[Signature]* DEPUTY CLERK

FPI NO. 4-8 71-704 6127

16 UNITED STATES DISTRICT COURT * EASTERN DISTRICT OF NEW YORK A 57

Seymour Kloner, Petitioner,

-against-

UNITED STATES DEPARTMENT OF JUSTICE:

UNITED STATES BOARD OF PAROLE,

UNITED STATES BUREAU OF PRISONS,

QUEENS HOUSE OF DETENTION FOR MEN,

Respondents.

* PETITION FOR WRIT OF

* HABEAS CORPUS AND

* AFFIDAVIT

* Case No.

FILED
U.S. DISTRICT COURT
NOV 11 1975
15C 1212
1379
1395

Seymour Kloner, being duly sworn, deposes and says; That I am the Petitioner herein, and am familiar with all of the facts stated:

Petitioner states that he has been incarcerated since January 24, 1975, and is currently at the Queens House of Detention for Men, due to the totally illegal actions of his former United States Parole Officer, Mr. Gerard Fennelley, who lied outright and the United States Board of Parole upheld his allegations, and therefore revoked your Petitioner's Parole.

Further, Petitioner states that he is being violated against by not being granted his rights as per guarantees of the First, Eighth and Fourteenth Amendments of the United States Constitution; as during the August 1975 term the United States Court of Appeals for the Second Circuit remanded the matter of Kahne vs. United States to the District Court for disposition as to the "Kosher Food" issue, The United States District Court for the Eastern District of New York pursuant to Writ of Mandamus and Habeas Corpus, granted the application of Meir Kahane for Kosher Food pursuant to the First, Eighth and Fourteenth Amendments of the United States Constitution.

Further, Petitioner states that Meir Kahane is also held as a Parole Violator, But, has been granted the relief to pursue his Religion and is designated at a New York City Federal Community Center, and allowed out for seven hours each day--to obtain kosher food and be able to practice his religion--thus, your Petitioner is being discriminated against by the above titled Respondents, and by each of their officers, agents, employees and all persons acting in concert or participation with them by being denied these same rights.

While Petitioner realizes that he is not a Rabbi, (defined by the dictionary, as a Jew trained and ordained for Religious leadership,) he maintains that he is of Orthodox Jewish upbringing and schooling and does not eat unkosher food.

Further, though he prays as all religious Jews do a minimum of three times a day, he is denied the right to pray with a quorum of ten Jews, as per dictates of his religious upbringing and beliefs; thus certain prayers must be omitted, he cannot be called to the Torah, and is denied other religious items needed to practice his religion.

While your Petitioner is further aware that the actions of the United States Board of Parole are filed for decision in the United States Court of Appeals for the Second Circuit, he maintains that he should be granted leave and relief to be designated to the New York City Community Treatment facility, pending the Court of Appeals decision as to this "Kosher Food" issue; for as this matter was in the process of various court actions, Meir Kahane was granted these rights prior to the court order rendered in the August term of the United States Court of Appeals for the Second Circuit.

WHEREFORE, your Petitioner respectfully prays that an order be entered granting him the right to practice his religious beliefs, as per guarantees of the First, Eighth and Fourteenth Amendments of the United States Constitution; for an order to be entered for your Petitioner to be designated to the New York City Community Treatment facility so that he may have access to Kosher food and pray as per his beliefs....while your Petitioner's other Appeal is also pending (Re. Docket No. T - 5206,) he prays that this writ be granted because of the foregoing facts he is being restrained of his RIGHTS!!

Dated: October 31, 1975

Respectfully submitted;

Seymour Kloner

Seymour Kloner,

Petitioner, pro se

126-02 82nd Avenue

Kew Gardens, New York

11415

Sworn to, before me, this 31 day of October, 1975.

Marshall E. Greene

NOTARY PUBLIC

MARSHALL E. GREENE
Commissioner of Deeds
City of New York 4-1156
Certificate filed in New York County
Commission Expires Feb. 1, 1977

16. LETTER (BY WEINSTEIN, J.) TO PETITIONER DATED

NOVEMBER 5, 1975

A

59

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
BROOKLYN, NEW YORK 11201

CHAMBERS OF
JACK B. WEINSTEIN
DISTRICT JUDGE

November 5, 1975

Mr. Seymour Kloner
126-02 82nd Avenue
Kew Gardens, New York 11415

Dear Mr. Kloner:

Thank you for your letter of November
1st.

I have no authority to act in your
case. I am forwarding your papers to Judge
Rayfiel who acts for the court in these matters.

Yours truly,

U.S.D.J.

cc: Hon. Leo F. Rayfiel ✓

17
LETTER TO WEINSTEIN, J.
DATED NOVEMBER 1, 1975

(2)

Seymour Kloner
A 60 126-02 82nd Ave
New Gardens, N.Y.
11415

Honorable Jack B. Weinstein
District Judge
U.S. District Court
Brooklyn, N.Y.

November 1, 1975

Honorable Judge Weinstein,

I hope this letter finds you and yours well. It has been about two months since our last communication, at which time all my applications were placed in front of The Honorable Judge Rayfield.

On September 22nd, he rendered a decision on my five applications, over twenty pages in all; and denied them in all respects. His reply was in four & a half pages - two pages of my statements, but not replied to.

On October 22 I resided to your Courtroom a motion for relief of judgment and that was denied too.

I am at wit's end as to what and how to proceed further; all I really seek is Justice due to the U.S. Board of Parole's actions.

In any event, I am enclosing an application with this letter which is

Self explanatory - so that I might be
 granted the same rights as accorded to
 Rabbi Meir Kahane, who is also held as
 a parole violator, but at a New York City
 halfway house.

Since you made that decision
 prior to the settlement of the 'Kosher Food'
 issue, I pray and ask for your assistance,
 so that I too can eat & drink as I may
 believe - Thank you so very much for your
 consideration.

Respectfully
 yours.

Shalom

By Shalom

18. HABEAS CORPUS MOTION TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER AND
UNITED STATES DISTRICT COURT AFFIDAVIT DATED NOVEMBER 12, 1975

62

EASTERN DISTRICT OF NEW YORK

Seymour Kloner, ex rel., Petitioner,	*	HABEAS CORPUS MOTION TO SHOW
" against "	*	CAUSE AND TEMPORARY RESTRAINING
UNITED STATES BUREAU OF PRISONS,	*	ORDER.
Respondent,	*	

Civil Action No. _____

Upon the complaint, the supporting affidavit of petitioner and the memorandum of law submitted herewith, it is ordered that the United States Bureau of Prisons Show Cause in the Court House of the District Court of the Eastern District of New York why a preliminary injunction should not issue pursuant to Rule 65 (B) of the Federal Rules of Civil Procedure enjoining the respondent, their successors in office, agents, and employees and all other persons acting in concert and participation with them, from removing petitioner from the New York City area.

Dated: November 12, 1975.

Respectfully submitted,

Seymour Kloner

Seymour Kloner,

Petitioner, pro se.

126 - 02 82nd Avenue

Kew Gardens, New York

11415

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Seymour Kloner, ex rel., Petitioner,	*	AFFIDAVIT IN SUPPORT OF MOTION TO
- against -	*	SHOW CAUSE AND TEMPORARY RESTRAINING
UNITED STATES BUREAU OF PRISONS,	*	ORDER.
Respondent.	*	Civil Action No. _____

Seymour Kloner, is at this date detained at the Queens House of Detention due to the illegal and unconstitutional actions taken against him by the United States Board of Parole, petitioner's states that his parole was revoked illegally and has filed applications with the Eastern District Court and with the U.S. Court of Appeals in New York. Petitioner requests to remain in the New York City Area either at the Federal House of Detention or a facility of the Federal Community (half-way house) Service, pending decisions and hearings by the above mentioned Courts.

Petitioner is being confined illegally in violation of the First, Eighth and Fourteenth Amendments of the United States Constitution, denying him the RIGHT to practice his religion.

Further, any geographical relocation outside of the New York City area would severely limit his access to his attorney and make it physically and financially impossible for either his parents or fiancée to visit with him; as they are under Doctors care and constant medication.

Wherefore, your petitioner prays that an order restraining the Respondent and each of their officers, agents, employees, and all persons acting in concert or participation with them from relocating your petitioner outside of the New York City area. Thank you sincerely for your consideration.

Dated: November 12, 1975.

Respectfully submitted,

Seymour Kloner

Seymour Kloner,

Petitioner, pro se.

126 - 02 82nd Avenue

Kew Gardens, New York, 11415

RECEIVED
NOV 13 1975
CLERK OF COURT
EASTERN DISTRICT OF NEW YORK

Sworn to, before me, this 12th day of november, 1975.

Marshall F. Greene

NOTARY PUBLIC
MARSHALL F. GREENE
COMM. EXPIRES 12/31/76
City of New York County
Cert. No. 123456789
Comm. No. 123456789

14 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

J. # 75-1952
Marcus

Seymour Kloner, Petitioner, pro se, •
- against - •
UNITED STATES DEPARTMENT OF JUSTICE •
UNITED STATES BOARD OF PAROLE; •
UNITED STATES BUREAU OF PRISONS; •
Respondents. •
HABEAS CORPUS MOTION FOR RELIEF
OF JUDGMENT OR ORDER & AFFIDAVIT
RE: 7501212, 7501379 & 7501395
Civil Case No. _____

I Seymour Kloner, being duly deposed say: that I am the Petitioner herein and am familiar with all of the facts stated herein;

Petitioner's application for writ of habeas corpus dated October 31, 1975 was denied in the above district court by the Honorable Judge Rayfiel, in a decision rendered on November 10, 1975.

Pursuant to Federal Rules of Civil Procedure, Rule 60 (B) your Petitioner seeks a Relief from that Order based upon the following facts; what Petitioner sought was granted to Meir Kahane, in action taken on May 7, 1975, U.S. vs. Kahane, Nos 71-CR-479, 75-C-624, by the Honorable Judge Weinstein. Further the same relief has been granted to Richard Huss and Jeffrey Smilow, on July 25, 1975 by the U.S. Court of Appeals for the Second Circuit, No. 1248, Docket 75-1192. Thus based on this evidence, the relief should be granted as your petitioner is being denied his RIGHTS as per the First, Eighth and Fourteenth Amendments of the United States Constitution.

Your Petitioner respectfully requests that the Court with due diligence study the two above quoted decisions and render an order for your petitioner to be transferred to the New York City Community Treatment Center in Manhattan so that he may have access to Kosher Food and pray as required by his Religious beliefs.

Dated: November 18, 1975.

Respectfully submitted,

Seymour Kloner

Seymour Kloner,
Petitioner, pro se.
126-02 82nd Avenue
Kew Gardens, New York, 11415

Sworn to, before me, this 18th day of November, 1975.

Marshall E. Greene

NOTARY PUBLIC OF NEW YORK
MARSHALL E. GREENE
Commissioner of the City of New York
Certificate filed in New York County
Commission Expires Feb. 1, 1977
11 18 75 .52

ONLY COPY AVAILABLE

750952
20. LETTER FROM RAYFIEL, J. TO PETITIONER DATED
NOVEMBER 21, 1975

CHAMBERS OF
LEO F. RAYFIEL
DISTRICT JUDGE

750952
Marcus
A 65
750952
UNITED STATES COURT
EASTERN DISTRICT OF NEW YORK
BROOKLYN, N. Y. 11201

November 21, 1975

Mr. Seymour Kloner
Queens House of Detention
126-02 82nd Avenue
Kew Gardens, New York 11415

Dear Mr. Kloner:

Enclosed is a copy of memorandum decision
and order this day filed in the office of the Clerk
of the Court.

Very truly yours,

United States District Judge

Enclosure

cc: Stanley Marcus, Esq.
AUSA

S. Marcus, v. U
AUSA.

A 66

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x

SEYMOUR KLONER, ex rel.,

Petitioner,

75 C 1212

- against -

UNITED STATES BUREAU OF PRISONS,

Respondent.

----- x

RAYFIELD, J.

Application denied. There is no authority for the procedure adopted by the petitioner, nor has the petitioner shown any merit in support of the application.

This decision constitutes an ORDER. The Clerk is directed to file a timely notice of appeal on the petitioner's behalf.

Dated: Brooklyn, New York
November 21, 1975



U. S. D. J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

750952
Marcus

Seymour Kloner, Petitioner pro se,
- against -
United States Department of Justice;
United States Board of Parole;
United States Bureau of Prisons;
Respondents.

HABEAS CORPUS MOTION TO
VACATE SENTENCE: PURSUANT
TO 28 U.S.C. #2255
and Affidavit.
Case No. _____

I, Seymour Kloner, being duly sworn depose and say: That I am the Petitioner herein and am familiar with all of the facts stated heretofore;

I am a Federal prisoner, this action is brought to obtain my rights to obtain Kosher Food while under any form of incarceration; and to be designated to the New York City Community Treatment Center, (half-way house) as granted to Meir Kahane, in U.S.A. vs. Kahane Nos. 71-CR-479, 75-C-624, in a decision rendered by the Honorable Judge Weinstein on the 7th day of May, 1975. I contend that my incarceration is presently in violation of First, Eighth and Fourteenth Amendments of the United States Constitution and pursuant to 28 U.S.C. #2255;

Criminal Law 997.5, Statute relating to vacation of sentence and correction of sentences can be used only to attack denial of constitutional rights at imposition of sentence, not those which arise afterwards upon its execution; latter class of violations must be rectified by habeas corpus or other form of petition in district of confinement.

Prisons 17, Federal district court had power to make recommendations to prison authorities concerning conditions for defendant's incarceration, including availability of kosher food.

Criminal Law 993, Stripping prisoner of opportunity to maintain and strengthen his religious and ethical values would be so counter-productive of good sentencing principles as to require reconsideration of incarceration.

Criminal Law 997.1, Federal prisoner's petition to vacate his sentence on ground that it unconstitutionally denied him his First Amendment privilege to limit his diet to kosher food could properly be considered as motion to vacate under statute permitting court to vacate or correct sentence. 28 U.S.C.A. #2255.

Criminal Law 996.1, Federal district court, having sentenced defendant, could review sentence as imposed and correct denial of constitutional right violated by imposition of sentence itself. 28 U.S.C.A. #2255.

Criminal Law 997.1, Statutory right under statute permitting vacation or correction of sentence is not merely to federal forum but to full and fair consideration of constitutional claims. 28 U.S.C.A. #2255.

Criminal Law 997.16 (2), Where federal prisoner raised material issue of fact on claim of constitutional dimensions respecting conditions of his sentence, he was entitled to evidentiary hearing before sentencing court. 28 U.S.C.A. #2255.

Constitutional Law 84, Free exercise clause of First Amendment embrace both freedom to believe and freedom to act according to those beliefs. U.S.C.A. Const. Amend. 1.

Prisons 17, Federal prisons must, at a minimum, provide dietary alternatives to Jewish prisoners observing dietary laws that would not violate kosher requirements; such diet alternatives must supply adequate nutrition for a person who is to be incarcerated for a long period, and may be furnished to prisoners by local or national Jewish community groups. U.S.C.A. Const. Amend. 1.

Constitutional Law 274. (3), Fourteenth Amendment precludes prison authorities from indirectly and unreasonably favoring practices of some religions over others by preventing adherents from observing their religious requirements. U.S.C.A. Const. Amend. 14.

Criminal Law 1213, Refusal to provide observant orthodox Jew..... with kosher food while he is an inmate.....would amount to cruel and unusual punishment. U.S.C.A. Const. Amends. 1, 8.

A more precise basis for the court's jurisdiction is found in 28 U.S.C. #2255. The defendant's petition to vacate his sentence, in that it unconstitutionally denies him his First Amendment privilege to limit his diet to kosher food, may properly be considered as a motion under 28 U.S.C. #2255. That statute permits a federal prisoner to move at any time to vacate or correct his sentence upon the ground "that the sentence was imposed in violation of the Constitution or laws of the United States.....", see *Hill v. United States*, 368 U.S. 424, 426-27, 82 S.Ct. 468, 470, 7 L.Ed. 2nd 417 (1962). The third paragraph of the statute deals with the action to be taken on such a motion: "if the court finds.....that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or....correct the sentence as may appear appropriate." (Emphasis supplied.)

Section 2255 was designed to revise the procedure by which federal prisoners seek the relief of habeas corpus. It was intended "to provide" in the sentencing court a remedy exactly commensurate with that which had previously been available by habeas corpus in the court of the district where the prisoner was confined." *Kaufman v. United States*, 394 U.S. 217, 222, 89 S.Ct. 1068, 1071, 22 L.Ed. 2nd 227 (1969). This Court having sentenced the petitioner, may at any time review the sentence it imposed and correct the denial of a constitutional right violated by the imposition of the sentence itself. The statutory right under 2255 is not merely to a federal forum but to "full and fair consideration of constitutional claims." *Kaufman v. United States*, supra, 394, U.S. at 228, 89 S.Ct. at 1075. Cf. *S. Fuld*, Writ of Error Coram Nobis, 117 N.Y.L.J., Nos. 130-132, June 5,6,7 (1947); 28 U.S.C. 1651, 28 U.S.C. 2241(c) (3).

Based on the foregoing excerpts of the law and the fact that your petitioner is a practicing orthodox Jew it is respectfully requested that the court at the very least grant a hearing to assess this request for Constitutional rights, and grant the petitioner designation to the New York City Community Treatment Center so that he may have access to Kosher Food, able to pray with a required quorum of ten Jews; and be able to practice his religion as required by his upbringing and belief.

Venue and Jurisdiction are both proper as lies within 28 U.S.C. 1361 and 1391, also 1406, 1404 and 1653.

Wherefore, your petitioner respectfully requests his rights as per the First, Eighth and Fourteenth Amendments of the United States Constitution; and any and all further relief that the court deems just and proper, as Petitioner will be returned to Federal authorities imminently.
Dated: November 24, 1975.

Respectfully Submitted,

Seymour Kloner

Seymour Kloner, Petitioner, Pro se.

126-02 82nd Avenue

Kew Gardens, New York, 11415

Sworn to, before me, this 24 th day of November, 1975.

Marshall E. Greene

NOTARY PUBLIC
MARSHALL E. GREENE
Commissioner of Deeds
City of New York 4-1156
Certificate filed in New York County
Commission Expires Feb. 1, 1977

RECEIVED
NOV 25 1975
CLERK OF THE COURT
NEW YORK COUNTY

22
150952
Marius

PETITION FOR WRIT OF HABEAS CORPUS AND AFFIDAVIT DATED JANUARY 21, 1976

UNITED STATES DISTRICT COURT - EASTERN DISTRICT OF NEW YORK

A 70

Seymour Kloner,
Petitioner, Pro se,
- against -
Gerrard Fennelley,
Respondent.
Civil Case No. _____

I, Seymour Kloner, being duly sworn, depose and say: that I am the Petitioner herein and am familiar with all of the facts stated heretofore.

Petitioner has been incarcerated since January 24, 1975, due solely by the actions and lies stated by his former United States Parole Officer, Mr. Gerrard Fennelley, the respondent herein.

The United States Board of Parole upheld Mr. Gerrard Fennelley's lies, and based on his statements revoked your petitioner's Parole.

Petitioner further states, that he is being held in violation of his Constitutional rights as per guarantees of the First, Eighth, Fourth, Sixth, Fifth, Ninth and Fourteenth Amendments.

Further, based on numerous facts and witnesses and documents your petitioner will prove to the Court the abuse of discretion made by the respondent, in an outright and flagrant discriminatory and prejudicial act.

At this date more than a year has elapsed and the respondent has pursued to use his office and the powers vested in his office to harass and injure your petitioner—his word is still respected and although this case is legally out of his jurisdiction, he relentlessly continues to torment your petitioner and his loved ones; therefore the main thrust for this petition is to have Mr. Gerrard Fennelley removed from his office, for he has continued to hurt and stymie your petitioner, without having, all the facts, or the authority to exercise the powers of his office upon your petitioner.

Thus, your Petitioner seeks a hearing which is multi-faceted: to have Mr. Gerrard Fennelley removed from his office, to vindicate your petitioner, to prove to the court all the facts stated above and more.

Dated: 1/21/76

Respectfully submitted,

Seymour Kloner,
Petitioner, Pro se.

Seymour Kloner

Sworn to, before me, this 21 day of January, 1976

R. Simpson
Notary Public

R. Simpson, Caseworker
Authorized by the Act. of July 27, 1955
to administer oaths (18 U.S.C. 4004)

Seymour Kloner

Petitioner, pro se,

- against -

Gerrard Fennelley,

Respondent.

2. PETITION for HABEAS CORPUS

• and AFFIDAVIT

• Civil Case No. _____

A

71

I, Seymour Kloner, being duly sworn, depose and say: That I am the petitioner herein and am familiar with all of the facts heretofore;

Pursuant to the Federal Rules of Civil Procedure, Rule 60 (b) items 1, 3, 4, 5 and 6; your petitioner respectfully requests that the Court relieve him from the order of the United States Board of Parole and toutit award your petitioner immediate release from any form of custody and grant your petitioner the minimum sum of one million dollars (\$1,000,000) due to your petitioner's wrongful incarceration.

The United States Board of Parole revoked your petitioner's parole based solely on the fraudulent statements made by Gerrard Fennelley, your petitioner's former United States Parole Officer.

The Board of Parole issued a warrant, dated January 20, 1975 and this was served upon your petitioner at the occasion of his normal reporting date. Subsequently, at the Local Violation Hearing, at which your petitioner requested the presence of Mr. Fennelley; all the items on the warrant were discredited. In an overt, prejudicial and antagonistic statement, Mr. Fennelley charged your petitioner with an item that was discussed in Mr. Fennelley's office during the month of July 1974; an item that he specifically stated would not be used to constitute a violation. Seven months later, at the Local Violation Hearing, held on February 24, 1975, this item was used against your petitioner. Hence your petitioner's parole was revoked on this and other false statements made by Mr. Fennelley.

Thus your petitioner and his loved ones have been deprived of their constitutional rights, since your petitioner's incarceration which commenced on January 24, 1975. Your petitioner can validate these and other facts with witnesses and written evidence.

WHEREFORE, your petitioner prays that this court grant at the minimum a hearing to contend these allegations and pursuant to Rule 60 (b) grant your petitioner relief from the Judgment made by the U. S. Board of Parole, release your petitioner from any form of control or custody, discharging your petitioner's former U.S.P.O. from his position and award to your petitioner the sum of one million dollars (\$1,000,000) as damages to his health and to the health of his loved ones.

Dated: January 27, 1976

Sworn to, before me, this 28
day of January 1976

NOTARY PUBLIC

Respectfully submitted,

Seymour Kloner
Seymour Kloner,
petitioner, pro se

#77129 - Danbury Hall

Pembroke Station

Danbury, Conn., 06810

R. Simpson, Caseworker
Authorized by the Act. of July 27, 1956
to administer oaths (18 U.S.C. 4004)

ONLY COPY AVAILABLE

24 LETTER FROM RAYFIEL, J. TO PETITIONER DATED FEBRUARY 4, 1976

A 72

CHAMBERS OF
LEO F. RAYFIEL
DISTRICT JUDGE

UNITED STATES COURT
EASTERN DISTRICT OF NEW YORK
BROOKLYN, N. Y. 11201

February 4, 1976

Mr. Seymour Kloner
72129
Danbury Hall
Pembroke Station
Danbury, Connecticut 06810

Dear Mr. Kloner:

Enclosed is a copy of memorandum decision
and order this day filed in the office of the Clerk
of the Court.

Very truly yours,

United States District Judge

cc: Stanley Marcus, A.U.S.A.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

A 73

-----X
SEYMOUR KLONER,

Petitioner,

76 C 184

- against -

GERRARD FENNELLEY,

Respondent.
-----X

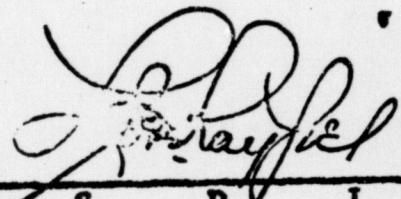
RAYFIEL, J.

Petitioner submits two papers, describing each as a petition for habeas corpus, and naming, in each, the same probation officer as respondent.

In the main, the statements of petitioner are vague, conclusory, and devoid of any facts. The only statement, which includes any factual reference, is petitioner's allegation that the respondent charged petitioner with a violation of parole arising out of facts which respondent had declared would not be used against petitioner; and those facts were subsequently utilized as a basis for a charge of parole violation causing a revocation of parole and petitioner's incarceration.

There is no basis, in either paper, for any relief. The applications are denied. This decision constitutes an ORDER. The Clerk is directed to file a timely notice of appeal in petitioner's behalf.

Dated: Brooklyn, New York
February 4, 1976.



U. S. D. J.

25. IN THE UNITED STATES DISTRICT COURT - EASTERN DISTRICT OF NEW YORK

Seymour Kloner,

Petitioner, Pro se,

- against -

Gerrard Fennelley,

Respondent.

PETITION for HABEAS CORPUS

and AFFIDAVIT

Civil Case No. _____

I, Seymour Kloner, being duly sworn, deposes and says: that I am the Petitioner herein and am familiar with all the facts stated;

Pursuant to the Federal Rules of Civil Procedure, Rule 65 (b) (1) and Rule 60 (b) (1,3,4, & 6,) and pursuant to the Federal Rules of Appellate Procedure Rule 23, (b, c, & d,) further due to the fact that your Petitioner makes this claim of Constitutional magnitude; that he has been incarcerated in violation of the First, Fourth, Fifth, Sixth, Eighth, Ninth and Fourteenth Amendments of the United States Constitution, based on the following facts your Petitioner respectfully prays that the Court grant the below listed relief.

Due solely to the statements and actions taken by Mr. Gerrard Fennelley, your Petitioner's former United States Parole Officer, your Petitioner has been in prison, in violation of his Constitutional rights since January twenty-fourth, 1975.

Your Petitioner has patiently attempted to right this wrongful incarceration, and even requested the presence of Mr. Fennelly at the Parole Violation Hearing, which was held on February twenty-fourth, 1975. At that Hearing Mr. Fennelley used an item to aid and abet the Revocation of your Petitioner's Parole status. This item was used in a total abuse of discretion by Mr. Gerrard Fennelly, for your Petitioner was advised that this item would not result in any ill action against your Petitioner.

At this Local Violation Hearing, all the items on the warrant were discredited and this statement was a result of prejudicial and antagonistist feelings that Mr. Fennelly was harboring for quite some time. While some of the results of Mr. Fennelly's actions will be contended in the United States Court of Appeals for the Second Circuit, the main thrust for this application is to result in Mr. Gerrard Fennelly being removed from his Office, and be barred from any position where his actions might be life-shaping. To further drive this point across your Petitioner seeks to effect his freedom and to collect as damages the sum of Ten Million Dollars, due to this wrongful imprisonment and the damage caused to your Petitioner's loved ones and to your Petitioner.

In two previous applications to this court, filed under Docket number 76 C 184 your Petitioner attempted to gain some of the relief stated herein, they are under Appeal, every application to this Court, was sent to the same Judge and subsequently denied, prove that the Board of Parole is not pulling strings to protect your Petitioner's former U.S.P.O.

Your petitioner states that he is of the belief that it does not require any great intellectual articulateness in the art of jurisprudence to conclude the illegality of what is occurring here. This violation of due process and total disregard for the guarantees of the United States Constitution, under the code of law and under the name of society far exceeds and outweighs the crime alleged to have been committed by your petitioner; the moment of truth has come, this court has the powers vested to restore justice, or would it prefer to do so under a writ of Habeas? This unlawful incarceration must end!

For more than one year your petitioner has attempted to right this wrong, in the two previous applications Judge Rayfiel stated that they were devoid of facts, were your petitioner to state "the injustices done to him and to his loved ones only due to the false allegations of the Respondent, it would require a volume of encyclopedic length—I have requested a hearing for over one year now, to contend in court the cause of the injustices done to us—we have been repetitively denied every request, every application, every form of justice by this court, and always by the same Judge!

Under the Bill of Rights every citizen is endowed with certain unalienable rights, It would seem that our ideals are diluted in practice, that some of us are more equal than others...

Wherefore, your petitioner respectfully requests that a date be set for a hearing, so that your petitioner can prove the injustice caused to him and his loved ones, for the court to finally grant the relief requested herein.

Dated: February 11, 1976.

Respectfully submitted,

Seymour Kloner

Seymour Kloner,

Petitioner, Pro se.

#72129 - NH

Pembroke Station

Danbury, Connecticut, 06810

Sworn to, before me, this 13th day of February, 1976.

"Authorized by the Act of July 7, 1909, to administer oaths 18 U.S.C. 455"

NOTARY

PUBLIC



TELEPHONE:
522-3494

SIMON CHREIN
ASSOCIATE ATTORNEY-IN-CHARGE
Eastern District

THE LEGAL AID SOCIETY
CRIMINAL DEFENSE DIVISION
FEDERAL DEFENDER SERVICES UNIT
26 COURT STREET
BROOKLYN, N.Y. 11201
ROOM 701

WILLIAM GALLAGHER, Attorney-in-Charge

MURRAY MOGEL, CHIEF OF OPERATIONS
Southern and Eastern Districts

ORISON S. MARDEN
Chairman of the Board
SHELDON C. IENIS
President
HAROLD H. HEALY, JR.
Treasurer
DAVID N. DINKINS
Secretary
EDWARD Q. CARR, JR.
Attorney-In-Chief

July 7, 1975

Honorable Jack B. Weinstein
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: SEYMOUR KLONER

Dear Judge Weinstein:

I am sorry not to have responded to Your Honor's June 20, 1975 letter concerning Mr. Kloner sooner.

Our office has researched Mr. Kloner's case by consulting Court records and interviewing his parole officer.

Mr. Kloner's violation of Federal Parole is predicated on two state convictions for felonies, one in Queens County and the other in Kings County. He is awaiting sentence on both cases.

Mr. Kloner has had a parole revocation hearing in which he was represented by counsel whom he had retained privately.

In view of these facts and the further facts; that his state incarceration would render a federal furlough moot; and that determinations by the Bureau of Prisons and Board of Parole concerning prisoner furloughs and parole release dates are outside

continued....

The purpose of the Society is to render legal aid in the City of New York to persons who are without adequate means to employ other counsel. - By-laws of The Legal Aid Society.

TO: HONORABLE JACK B. WEINSTEIN

PAGE 2

the areas in which the Courts or counsel can be of assistance;
I feel that we would not be able to be of assistance to Mr.
Kloner.

Respectfully yours,

SIMON CHREIN
Associate ATTORNEY

SC:jgh
cc

SEYMOUR KLONER, #4uB-14
Queens House of Detention for Men
126-02 82nd Avenue
Kew Gardens, New York 11415

DATED DECEMBER 8, 1971

Dear Mr Accetta

I guess that by this time you have forgotten me, and I now I am only a number. on November Twentieth Judge Rafiel Sentenced me to FIVE YEARS.

From that morning thru the present my life and that of my wife's, my sister, and my daughter has been a nightmare. The act that I committed and that I am confined for was done during the only time I was ever unemployed in my life.

I was very upset when I lost my job thru no fault of my own, the business went into bankruptcy. I couldn't think straight I couldn't find employment. Yet I still had bills to pay and to support my ex-wife and daughter and also my present wife who is enemic and is now accidentally pregnant.

In October I found a good job with a future, and now because of this sentence I have lost that employment. How able my dependents to eat and live?

I have had a lot of time since I was incarcerated, to think and review

my PAST mistakes. and I am Truly
 Sorry for what I did, I am Also planning
 To see a phyciatrist here.

The reason I am writing you
 is To Appeal To your Sense of Judgement.
 To be in Prison with other criminals is
 not rehabilitation and can only serve to
 make a person hard and bitter.

To be rehabilitated is To find
 your self, realize your mistakes and think
 logically. I only pray To be back with
 my family and be a credit To the
 Community and To work at my old Job.

my employer is holding The Job open
 for me, but only until I meet The
 March Parole Board. and receive Their
 decision.

Any help you can give me will be
 greatly and Sincerely Appreciated.

Respectfully

Yours

Seymour Klomer

72129-158

28. LETTER FROM PETITIONER TO AUSA ACETTA

A 81

DATED SEPTEMBER 25, 1971

File

Anthony Acetta
United States Attorney
United States Court House
Brooklyn, New York 11201

RECEIVED
STATES ATTORNEY

9 06 A
STERN DISTRICT
OF NEW YORK

Seymour Kloner #72129
United States Penitentiary
Lewisburg, Pennsylvania
17837

711573
ACETTA
CL - 71

September 25, 1972

Dear Mr. Acetta:

I was sentenced by the Honorable Judge Rayfiel on November 19, 1972 for a period of five years conditioned by section 4208 (a) (2). After being incarcerated for five weeks I was interviewed by the Parole examined and on March 13 received a notice that my case would be reviewed during March of 1974.

My custody status has been elevated progressively: from close custody upon my arriving here to medium custody on June 21, 1972, to my present status of minimum custody granted me July 5, 1972: which should attest to the fact of my greater sense of responsibility and order, as well as a significant display of my complete rehabilitation.

As to further testimony to my complete rehabilitation, on July 12, 1972 I was granted an Unescorted three day furlough, in order to see my sick wife and new-born child. This should display the confidence entrusted to me by the officials of this institution. I returned here as scheduled.

While on this unescorted furlough I participated in long discussions with my family and my employers. Resultantly, the consensus of judgement was made that economically and emotionally my family as a whole and my employers are subjected to great pain and losses.

My record here is unblemished I am housed in honor quarters where the door to my room is never locked. I am receiving both meritorious pay and good days. I hold a very crucial position here where I am responsible for all food stores and I am assigned to specific maintenance. My caseworker has in his file many letters of recommendation from staff members here stating that further incarceration is not necessary and that I am and will be a constructive and responsible citizen.

My four year old daughter is very insecure, both my parents are under doctors care, my wife almost passed away and is very sick.

I realize that no law, anywhere has ever affected anyone exactly the same. There are always exceptional cases which are unfair to the individual, but society tolerates them because perfect law is impossible ~~unthinkable~~ and life without law is unthinkable; but this is an exceptional case, I am not a criminal, but I was a fool. I have had ample time to take myself apart, so to speak and have reached a point where I feel that I have "peaked out".

Punishment never solves a problem; it creates a new one. It is herein submitted that my exemplary conduct, greater sense of responsibility and order, and rapid progress in my complete rehabilitation warrants the consideration of the Parole Board prior to March 1974.

I would appreciate any recommendation you might give to help obtain an earlier review by the Parole Board.

Respectfully and Sincerely Yours,

Seymour Kloner

FEDERAL BUREAU OF INVESTIGATION

Date 2/25/71

SEYMOUR KLONER was interviewed by Special Agents (SAs) RAIMON L. PATTON and GEORGE A. WISNOVSKY at the New York Office of the Federal Bureau of Investigation and furnished the following signed statement, after being advised of his rights by SA PATTON as they appear on the executed Warning and Waiver Form:

Statement

"I, Seymour Kloner, make this free and voluntary statement to Raimon L. Patton and George A. Wisnovsky, who have identified themselves to me as Special Agents of the Federal Bureau of Investigation. I was advised by Agent Patton that I was to be questioned concerning the robbery of the Pioneer Savings and Loan Association, 1111 Pennsylvania Avenue, Brooklyn, New York, on February 19, 1971.

"I was born on January 7, 1940, in Brooklyn, New York. I have completed one year of college and can read and write the English language.

"I robbed the Pioneer Savings and Loan Association, 1111 Pennsylvania Avenue, Brooklyn, New York, on 2/19/71. I wore a grey hat (with a red feather in the band on the left side), and a black rain coat. I carried a toy plastic cap pistol which I displayed to a female teller. I gave her a manila business type envelope, which I brought from home, and told her to fill it with big bills. She put the money into the envelope, gave it back to me, and I walked out of the bank. I got into my automobile, 1964 Chevelle, two door hard top tan in color, New York license ACT 66, and drove to my apartment at 1976 Ocean Avenue, Brooklyn, New York. At 3:00 p.m. I was arrested by officers of the New York City Police Department and transported to the 75th Precinct. I admitted the above mentioned robbery to these officers, and turned over to them all of the money which I had left from the above robbery. I did not recall how much money I received from the teller because I did not count it. I told the officers that I had given some of it to my wife,

On 2/19/71 at New York, New York File # NY 91-9850
by SAS GEORGE A. WISNOVSKY and
RAIMON L. PATTON/RLP/crp -4- Date dictated 2/25/71

2.
NY 91-9850

A 83

"Victoria Kloner, who did not know where it came from, or anything about the above robbery.

"I decided to commit this robbery because I lost my job, could not find another one, and needed the money. I purchased the toy gun to use because I did not want to hurt anyone.

"I have read this statement consisting of this and three other pages, initialled all corrections because it is true to the best of my knowledge.

"I am very sorry if I hurt anyone. I just didn't think clearly. I just want a chance to get a job to work hard (I always have worked hard).

"I don't want to go to jail with hardened criminals. Please let me get a job so I can be with my wife and wonderful daughter. I want very much to be a lawful citizen and a good husband and father.

"Thank you for reading this. I beg you, sir, for a chance to be a lawful citizen and a credit to my community.

"Thank you

"/s/ Seymour Kloner

"Witness: Raimon L. Patton, Special Agent, FBI, NY, 2/19/71.

"Witness: George A. Wisnowsky, Special Agent, FBI, NY, 2/19/71"

AFFIDAVIT OF MAILING

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK, ss:

----- EVELYN COHEN -----, being duly sworn, says that on the 23rd
day of February, 1976, I deposited in Mail Chute Drop for mailing in the
U.S. Courthouse, Cadman Plaza East, Borough of Brooklyn, County of Kings, City and
State of New York, a APPENDIX FOR APPELLEE
of which the annexed is a true copy, contained in a securely enclosed postpaid wrapper
directed to the person hereinafter named, at the place and address stated below:

Phylis Skloot Bamberger, Esq.
LAS, Fed. Def. Services Unit
509 U.S. Courthouse
Foley Square
New York, N.Y. 10007

Sworn to before me this
23rd day of Feb. 1976

Olga S. Morgan
OLGA S. MORGAN
Notary Public, State of New York
No. 244501966
Qualified in Kings County
Commission Expires March 30, 1977

Evelyn Cohen